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Seventeenth report of the Secretary-General on the implementation of Security Council resolution 1701 (2006)

I. Introduction

1. The current report provides a comprehensive assessment of the implementation of Security Council resolution 1701 (2006) since the last report of the Secretary-General (S/2011/406) was issued on 1 July 2011.

2. The situation in the area of operations of the United Nations Interim Force in Lebanon (UNIFIL) remained generally stable during the reporting period. The cessation of hostilities established in August 2006 between the parties continued to hold, in spite of a serious incident on 1 August where the Lebanese Armed Forces and the Israel Defense Forces personnel briefly exchanged fire on the Wazzani River across the Blue Line.

3. On 26 July 2011, a UNIFIL logistics convoy was hit by an explosion caused by a roadside bomb south of the town of Saida. Six peacekeepers serving with the French contingent were injured, three of whom were transported to France for treatment. It was the second terrorist attack against UNIFIL within two months.

4. On 7 July, Prime Minister Mikati's Government won the vote of confidence of the Lebanese Parliament. In its ministerial statement, the Government expressed its commitment to the full implementation of resolution 1701 (2006). In keeping with that commitment, Prime Minister Mikati visited southern Lebanon and UNIFIL headquarters just a few days after his Government was sworn in.

5. The parties maintained their commitment to resolution 1701 (2006), ensuring that the cessation of hostilities continued to hold. However, they failed to make significant progress in the implementation of other key obligations under resolution 1701 (2006), as described in greater detail in this report. The parties should make every effort to meet their obligations under the resolution if progress towards a permanent ceasefire and a long-term solution between them, as called for in the resolution, is to be achieved.

6. The unrest in the Syrian Arab Republic since mid-March continued to impact Lebanon in different ways. The crisis in Syria remained a central and polarizing concern for Lebanese political actors. Several thousand people crossed Lebanon's northern border in the last six months, fleeing violence in Syrian towns close to the border. The Syrian army also carried out a number of cross-border actions, including shooting across the border and conducting a number of raids within the territory of Lebanon.

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II. Implementation of resolution 1701 (2006)

A. Situation in the UNIFIL area of operations

7. In the early morning on 1 August, Israel Defense Forces soldiers opened the technical fence and carried out a foot patrol in the valley along the Wazzani River. Lebanese Armed Forces soldiers monitored their movement. According to the Lebanese Armed Forces, one of its soldiers identified Israel Defense Forces soldiers at the entrance of a resort complex on the west bank of the river north of the Blue Line. The Lebanese Armed Forces said that it had fired warning shots in the air to counter an intrusion into Lebanese territory, and that the warning fire had ceased when it became clear that the Israel Defense Forces soldiers were back on the eastern side of the river. Some 10 minutes later, fire from the Israel Defense Forces perforated water tanks at a nearby Lebanese Armed Forces position. The Israel Defense Forces maintained that its soldiers did not cross either the river or the Blue Line at any point during the activity. Rather, they came under fire from a Lebanese Armed Forces soldier as they completed their ascent back up the hill towards the technical fence, and immediately returned fire.

8. UNIFIL was not present at the location at the time of the incident, and was notified by the parties only after the incident had taken place. Upon receiving notification, UNIFIL immediately dispatched a patrol to the site to monitor the situation and intervene as required. The Deputy Force Commander communicated with his counterparts, urging the restoration of calm. UNIFIL immediately launched an investigation and both parties, while giving contradictory accounts of the incident, cooperated in providing relevant information. The UNIFIL investigation concluded that the exchange of fire between the Lebanese Armed Forces and the Israel Defense Forces constituted a breach of the cessation of hostilities and a violation of resolution 1701 (2006). However, UNIFIL was unable to determine whether a ground violation of the Blue Line had occurred. Following the incident, UNIFIL increased the number of its patrols in the area.

9. The Israel Defense Forces continued its occupation of the northern part of Ghajar village and an adjacent area of land north of the Blue Line, in violation of resolution 1701 (2006). In an effort to facilitate the withdrawal of Israeli forces from the area, UNIFIL finalized its proposal for security arrangements, and dispatched it to the parties for their approval on 25 June. On 19 July, the Lebanese Armed Forces informed UNIFIL that it approved the arrangements, while emphasizing that they represented only a first phase in a process that would lead to Lebanon exercising its full sovereignty over the area. The Israel Defense Forces informed UNIFIL that the arrangements would require the approval of the Government of Israel. To date, the United Nations has not received any response from the Government of Israel.

10. The Israel Defense Forces continued to make almost daily intrusions into Lebanese airspace, mainly by unmanned aerial vehicles, but also by fighter jets. These overflights are violations of resolution 1701 (2006), as well as of Lebanese sovereignty. UNIFIL has continued to protest all air violations, calling on the Israeli authorities to cease them immediately. The Government of Lebanon also protested the violations, while the Government of Israel continued to maintain that the overflights are a necessary security measure.

11. There were several ground violations of the Blue Line, mostly inadvertent, by Lebanese shepherds tending livestock in the Shab'a Farms and Kafr Shouba areas, and by farmers harvesting olives in their fields near Blida. In July and early August, UNIFIL observed at least two incidents during which the same vehicle violated the Blue Line to the south of El Adeisse, while its occupants photographed the area. The Israel Defense Forces alleged that the occupants of the car were a Hizbullah reconnaissance team, while the Lebanese Armed Forces informed UNIFIL that they were likely land surveyors. On 31 August, a foreign national, employed in Lebanon, violated the Blue Line when the individual illegally crossed into Israel close to Maroun ar-Ra's.

12. There were three incidents in August where UNIFIL observed Israel Defense Forces or Lebanese Armed Forces soldiers aiming their weapons across the Blue Line at soldiers on the other side. On 2 August, a Lebanese Armed Forces soldier aimed his rocket-propelled grenade at an Israel Defense Forces tank during the course of an Israel Defense Forces patrol between the technical fence and the Blue Line near Meiss al-Jabal. On 24 August, Israel Defense Forces soldiers aimed their weapons at the Lebanese Armed Forces observation post in Kafr Kila, and the Lebanese Armed Forces soldiers reciprocated in kind. On 28 August, there was a similar incident at Kafr Kila, this time initiated by Lebanese Armed Forces soldiers when they aimed their weapons at Israel Defense Forces soldiers on patrol, who responded by doing the same in the direction of the Lebanese Armed Forces soldiers. On both occasions, UNIFIL personnel interposed themselves between the Lebanese Armed Forces and Israel Defense Forces soldiers to neutralize the situation.

13. There were a number of other incidents observed by UNIFIL along the Blue Line, particularly in the area of Kafr Kila, including several abusive verbal exchanges between Lebanese Armed Forces and Israel Defense Forces personnel and between Lebanese civilians and Israel Defense Forces personnel, and at least four incidents of stone throwing by Lebanese civilians at the Israeli technical fence and passing Israel Defense Forces patrols. On a number of occasions, UNIFIL observed Israel Defense Forces patrol vehicles stationed in the area pointing their gun turrets towards Lebanese territory. UNIFIL further reinforced its deployment in the area, urged the parties to exercise maximum restraint and called on them to utilize its liaison mechanism rather than taking any form of unilateral action that might increase tensions.

14. During the reporting period, the Lebanese authorities arrested two Lebanese individuals with links to the militant group Fatah al-Islam, who are accused of having fired a rocket from Houla in southern Lebanon into Israel in October 2009. The two individuals were referred for prosecution to the Lebanese military court. The trial is scheduled to take place on 25 November 2011.

15. UNIFIL and the Lebanese Armed Forces continued their close cooperation, and sought to further expand and enhance their coordinated activities. The two Forces maintained their respective deployments and installations, with the Lebanese Armed Forces retaining a steady deployment of three brigades and two battalions throughout the reporting period. UNIFIL and the Lebanese Armed Forces continued their daily operational activities, including at least 35 coordinated activities per day, and conducted joint capability exercises, at the same levels as described in my last

report (S/2011/406). In addition, UNIFIL began operating a seventh co-located checkpoint along the Litani River.

16. UNIFIL generally enjoyed freedom of movement throughout its area of operations, carrying out approximately 9,000 to 10,000 patrols each month. A small number of those patrols were subject to freedom of movement restrictions, involving members of the local population throwing stones and taking United Nations property, such as cameras, geographical information systems, communication equipment and maps, from UNIFIL personnel. Most stolen equipment was later returned by the Lebanese Armed Forces. A few incidents included cases of physical assault against UNIFIL personnel.

17. On 26 June, near Shaqra, a UNIFIL patrol was stopped by individuals who threatened the UNIFIL personnel, carried out aggressive searches, and left the site, taking with them UNIFIL GPS devices, communication equipment and maps. A Lebanese Armed Forces officer who was present observed the incident without intervening. On 27 June, a UNIFIL logistics convoy of eight vehicles travelling from Beirut was blocked by a crowd of civilians near Srifa. The Lebanese Armed Forces arrived to contain the situation. Stones were subsequently thrown at UNIFIL and the Lebanese Armed Forces personnel, lightly injuring two UNIFIL soldiers and damaging their vehicles. On 29 June, individuals fired pistols from a passing car at a UNIFIL checkpoint near the Khardaly Bridge on the Litani River. Given that it could not locate any impacts, UNIFIL assessed that the pistols were likely unloaded air pistols, which simulated the sound of small-arms fire. On 31 July, UNIFIL personnel, while verifying an earlier observation of an individual armed with a pistol near Hanin, were assaulted by a crowd of civilians and their patrol vehicles damaged. Lebanese Armed Forces personnel, called to the scene to control and disperse the crowd, did not intervene and the situation escalated. Civilians forced open the doors of two UNIFIL patrol vehicles, and took two GPS devices, a camera and a map. Several individuals among the crowd were observed carrying side arms, and the Lebanese Armed Forces subsequently confirmed that they were Lebanese Armed Forces intelligence officers in civilian clothes. On 13 September, a UNIFIL patrol was blocked by a crowd of civilians near Ayta ash-Sha'b. The civilians would not allow the patrol to proceed before the Lebanese Armed Forces arrived, and one civilian broke through the UNIFIL cordon established around the vehicles, lightly injured a UNIFIL soldier, and took one GPS. When the Lebanese Armed Forces arrived at the site, its personnel were unable to secure the immediate release of the UNIFIL equipment. On 26 September, UNIFIL personnel in an armoured personnel carrier mistakenly crossed the Litani River and drove outside the area of operations in the vicinity of Arnoun. While outside the area of operations, the UNIFIL personnel were stopped by five cars containing some 15 individuals armed with assault rifles. The individuals aimed their weapons at the armoured personnel carrier, searched the vehicle, and took some maps and documentation. The Lebanese Armed Forces later escorted the vehicle back inside the UNIFIL area of operations.

18. UNIFIL strongly protested all freedom of movement restrictions and cases of physical assault to the Lebanese Armed Forces, and called on the Lebanese authorities to take action against individuals involved in these incidents. The authorities assured UNIFIL that they take these incidents seriously, and pledged to provide UNIFIL with the results of its investigations.

19. Despite the incidents reported above, the attitude of the local population towards UNIFIL remained generally positive. The Force's Civil Affairs Office and civil-military coordination teams worked to mitigate frictions between the local population and UNIFIL, and to ensure a timely response to any concerns or complaints. The Civil Affairs Office and civil-military coordination teams continued their regular liaison and outreach activities, including through a series of sports, cultural, and children's festivals with the local population during the summer holidays. Quick-impact projects continued to be implemented through troop-contributing countries, as well as the UNIFIL budget, and the former continued to provide educational programmes and medical, dental and veterinary assistance.

20. UNIFIL continued to provide assistance to the Lebanese Armed Forces in taking steps to establish an area free of armed personnel, assets and weapons between the Blue Line and the Litani River, other than those of the Government of Lebanon and of UNIFIL. During the reporting period, UNIFIL encountered a number of individuals carrying hunting weapons inside the area of operations, in contravention of resolution 1701 (2006). In response, the Lebanese Armed Forces issued a statement reminding the local population of the ban on hunting and the requirements of resolution 1701 (2006), and the Lebanese Armed Forces and UNIFIL worked together to curb all hunting activities. UNIFIL activities did not discover any new arms caches, military materiel or infrastructure during the reporting period, nor did the Force find evidence that previously discovered former armed element facilities had been reactivated.

21. The Government of Israel continued to allege that Hizbullah had been building up its military positions and units inside populated areas in southern Lebanon and that unauthorized weapons were being transferred into Lebanon, including into the UNIFIL area of operations. In cooperation with the Lebanese Armed Forces, UNIFIL immediately investigates any claim regarding the illegal presence of armed personnel or weapons in its area of operations if specific information is received. The Force remains determined to act with all means available within its mandate and to the full extent provided for in its rules of engagement, as described in my previous reports. To date, UNIFIL has neither been provided with, nor found, evidence of the unauthorized transfer of arms into its area of operations. The Lebanese Armed Forces Command continued to state that it would act immediately to put a stop to any illegal activity in contravention of resolution 1701 (2006) and relevant Government decisions.

22. The UNIFIL maritime task force continued to carry out its dual mandate of conducting maritime interdiction operations and training of Lebanese naval forces. Since my last report, Lebanese navy and customs officials inspected 344 vessels identified as potentially of interest, and cleared them all. UNIFIL and the Lebanese naval forces conducted 22 workshops and 300 at-sea training exercises during the reporting period.

23. Incidents along the line of buoys continued to occur, with the Israel Defense Forces dropping depth charges or firing flares and warning shots along the buoy line. UNIFIL has no mandate to monitor the line of buoys, which the Government of Israel installed unilaterally and which the Government of Lebanon does not recognize. At the request of the parties, UNIFIL is engaged in exploratory bilateral discussions with both sides on maritime security issues in general, and the parties agreed to discuss these issues through the tripartite mechanism, with the possible

inclusion of naval experts. UNIFIL remains ready to assist the parties regarding maritime security issues, in accordance with its mandate under resolution 1701 (2006).

B. Security and liaison arrangements

24. UNIFIL continued to carry out its liaison and coordination with both parties, as set out in my last report (S/2011/406) and previous ones. Daily interaction and liaison activities between UNIFIL and the Lebanese Armed Forces was recently enhanced through the deployment of additional Lebanese Armed Forces liaison officers throughout the South Litani Sector. UNIFIL also maintained effective liaison and coordination with the Israel Defense Forces. There was no progress in establishing a UNIFIL office in Tel Aviv.

25. Monthly tripartite meetings, chaired by the UNIFIL Head of Mission and Force Commander and attended by senior Lebanese Armed Forces and Israel Defense Forces representatives, continued to provide strategic level liaison and coordination, remained the key mechanism to address security and military operational issues related to the implementation of resolution 1701 (2006), and played an important confidence-building role.

26. During the reporting period, UNIFIL and the parties held discussions within the tripartite forum regarding the events of 15 May, and the 1 August exchange of fire between Lebanese Armed Forces and Israel Defense Forces personnel. Both parties fully cooperated with the investigations of UNIFIL into the two incidents, and provided relevant information. UNIFIL finalized the investigation regarding the events of 15 May and delivered its investigation report to the parties regarding the exchange of fire on 1 August. With regard to the events of 15 May, the final report of UNIFIL reconfirmed the conclusions as set out in paragraph 9 of my last report (S/2011/406).

27. UNIFIL also put forward important recommendations with regard to the incident of 1 August, with a view to preventing incidents along the Blue Line in the future. The UNIFIL Force Commander called on both parties in the tripartite forum to observe three critical points. First, they should act with maximum restraint and avoid any kind of unilateral action, including any action that might be perceived as sensitive or provocative by the other side. Second, they should utilize the UNIFIL liaison and coordination mechanism to the full extent, and address all issues of tension through the Force. Third, they should avoid the use of fire in any circumstance, except where clearly required in immediate self-defence. UNIFIL emphasized that it is critical that these measures be applied at all times by all soldiers on the ground.

28. UNIFIL also urged the parties to implement specific recommendations contained within its investigation report into the events of 15 May. The parties responded by putting into effect several key recommendations. As reported in my last report, the Lebanese Armed Forces took measures to prevent similar demonstrations along the Blue Line in early June. On 26 August, it took measures to ensure that a ceremony at Maroun ar-Ra's marking "Jerusalem Day" occurred without incident. The Government of Lebanon also assured that it would do all it could to prevent a repetition of the events of 15 May, including imposing measures to restrict demonstrators' access to the Blue Line. During the same period, the Israel

Defense Forces informed UNIFIL that it had issued its soldiers with appropriate instructions, which were prepared taking into account what had occurred on 15 May, and that its troops were undergoing training in crowd control tactics and equipment. The Israel Defense Forces also emphasized that, in the event of another incident, it would not tolerate any attempt to interfere with the technical fence and would take all necessary measures to stop anyone from crossing it.

29. The tripartite forum also had discussions on other security and military operational issues, including ensuring full respect for the integrity of the Blue Line in its entirety, and seeking solutions to ease sporadic tensions between armed forces personnel of both parties in the Kafr Kila area. UNIFIL is seeking to extend specific operational procedures in the Kafr Kila and El Adeisse areas, and to expand them to other areas where incidents occasionally occur. The forum also sought to ensure further progress in visibly marking the Blue Line, and to encourage understanding on a number of practical and constructive measures to decrease tensions in sensitive areas along the Blue Line. The UNIFIL Force Commander remains engaged with the Israel Defense Forces, with a view to securing agreement to renew the arrangements in place last year allowing farmers from Blida to access parts of their olive fields located south of the Blue Line.

30. After an almost year-long hiatus in visibly marking the Blue Line, the parties responded positively to the UNIFIL initiative to proceed with the marking of non-contentious points along the entire Blue Line. Over the past four months, UNIFIL was able to identify a list of 135 such points, which are now in the process of being measured and marked. As at 31 October, UNIFIL deminers had cleared access to 176 points to be marked; out of those points, 135 were measured, 106 Blue Line markers were constructed, and 97 markers were verified by both parties.

31. Since my last report, UNIFIL and the Lebanese Armed Forces identified key areas of focus for the strategic dialogue. Specifically, the Lebanese Armed Forces enumerated critical assets and materiel required to increase and enhance its capacity inside the UNIFIL area of operations and facilitate the gradual transferring of responsibilities from UNIFIL to the Lebanese Armed Forces. Subcommittees are now at work carrying out assessments to define a process to meet that goal. UNIFIL will work with the Lebanese Armed Forces to initiate a series of capability packages that, with the assistance of donors, would help the Lebanese Armed Forces gradually assume effective security control over the UNIFIL area of operations and Lebanese territorial waters as envisaged in my letter of 6 August 2009 addressed to the President of the Security Council (S/2009/407).

32. In its resolution 2004 (2011), the Security Council requested me to conduct a strategic review of UNIFIL in an effort to ensure that the Force is configured most appropriately to fulfil its mandated tasks. In that regard, the Department of Peacekeeping Operations has consulted with a number of Member States and troop-contributing countries, as well as UNIFIL, on the best way forward. The Department of Peacekeeping Operations, in close coordination with UNIFIL, intends to complete the review by the end of 2011. I aim to present the review's major findings and conclusions to the Security Council early in 2012.

C. Disarming armed groups

33. As indicated in my previous reports, the maintenance of a substantial military capacity by Hizbullah and of weapons by other armed groups outside of the control of the Lebanese State, in direct breach of resolutions 1559 (2004), 1680 (2006) and 1701 (2006), continued to pose a serious challenge to the ability of the Lebanese State to exercise full sovereignty over its territory.

34. Hizbullah continued to acknowledge that it maintained a substantial military arsenal separate from that of the Lebanese State, claiming it served defensive purposes against Israel. In a letter dated 25 August 2011 (S/2011/537), the Government of Israel reiterated its grave concerns concerning Hizbullah's continued armament and increased military capability in Lebanon.

35. In spite of the decision taken in 2006 by the National Dialogue of Lebanese leaders, and confirmed in subsequent meetings of the National Dialogue, no progress was made with regard to dismantling the military bases maintained by the Popular Front for the Liberation of Palestine-General Command (PFLP-GC) and by Fatah al-Intifada. All but one of the bases are located along the Lebanese-Syrian border. Their presence continues to compromise Lebanese sovereignty and governmental authority. It also poses a challenge to the effective control of the eastern border between Lebanon and the Syrian Arab Republic. I have called consistently upon the Lebanese authorities to dismantle the PFLP-GC and Fatah al-Intifada military bases, and on the Government of the Syrian Arab Republic to cooperate with these efforts.

36. The security situation in the Palestinian refugee camp of Ain el-Hilweh remained precarious. On 5 and 6 August, following an assassination attempt against the military commander of Fatah in Lebanon, heavy clashes between armed factions erupted in Ain el-Hilweh. A ceasefire was agreed upon after hours of fighting that left a number of people injured. A school of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was hit by a rocket-propelled grenade, causing material damages. Fears remain that the conditions of hardship inside the camp could strengthen radical militant groups operating inside it. Notwithstanding those incidents, Lebanese authorities deemed that cooperation on camp security with Palestinian security officials in the camps continued to be satisfactory. The President of the Palestinian Authority, Mahmoud Abbas, visited Lebanon from 16 to 19 August and stressed that Palestinian refugees in Lebanon had no need for weapons and must abide by Lebanon's domestic laws.

37. A rise in the number of security incidents took place during the reporting period, highlighting the threat to Lebanon's sovereignty posed by armed groups outside the control of the State and by the proliferation of weapons in the country. On 12 September, as a result of a personal dispute, fierce clashes involving the use of heavy weapons took place between militants of Hizbullah and armed Palestinians at the outskirts of Burj al-Barajneh refugee camp in Beirut, leaving several people injured. On 19 September, 16 people were also reportedly wounded in an armed clash that erupted between two local families in the district of Saida. In a positive development, the Estonian nationals who were kidnapped in March were released on 14 July. Subsequently, on 20 September, the Lebanese Internal Security Forces confronted the alleged kidnappers of the seven Estonian nationals in a West Bekaa village, and killed two men and arrested another four.

38. I continue to believe that the disarmament of armed groups should be carried out through a Lebanese-led process that will bring the full restoration of the authority of the Government of Lebanon over all its territory, so that there are no weapons or authority in Lebanon other than those of the State. Lebanese leaders committed to such a process in May 2008, when they decided to convene a National Dialogue Committee to agree on a national defence strategy, which, in turn, would have to consider the issue of weapons outside the control of the State. However, the National Dialogue Committee has not met since 4 November 2010. I welcome President Sleiman's assurance when I met him in New York on 22 September that he would re-convene the National Dialogue as soon as possible.

D. Arms embargo and border control

39. In resolution 1701 (2006), the Security Council decided that all States were to prevent the sale or the supply of arms and related materiel to entities or individuals in Lebanon by their nationals or from their territories or using their flag vessels or aircraft. The Government of Lebanon did not report any breach of the arms embargo imposed by resolution 1701 (2006). During a recent visit by my Special Coordinator to Israel, the Government of Israel reiterated its allegations of significant breaches of the arms embargo across the border between Lebanon and the Syrian Arab Republic. While the United Nations takes these allegations seriously, it is not in a position to verify this information independently.

40. The Security Council, in resolution 1701 (2006), also called upon the Government of Lebanon to secure its borders and other entry points to prevent the entry into Lebanon without its consent of arms and related materiel. Despite the commitment expressed by the Government of Lebanon in January 2010 to adopt a comprehensive national strategy for border management, no progress was made in this respect during the reporting period. Donors continued to share information and coordinate their support to Lebanon's security agencies for improved management of the border. However, the absence of a national strategy hampered the allocation of additional funds to that effort.

41. Lebanese authorities informed my Special Coordinator that the deployment of security personnel for the management of the border remained unchanged since my last report. The control of the northern border with the Syrian Arab Republic continued to be entrusted to the Common Border Force. On the eastern border, the Lebanese Armed Forces continues to deploy the second Border Regiment. Donors are considering providing training and equipment to the second Border Regiment and to the security agencies that operate the legal crossing points. The Lebanese Armed Forces still plans for the deployment of a third border regiment that would operate between the village of Arsal and the main crossing point of Masnaa.

42. The Lebanese Armed Forces informed the United Nations that the deterioration of the security situation in the Syrian Arab Republic had prompted it to adopt increased measures for the control of the border in order to prevent the entry of arms and military personnel into Lebanon. The Lebanese Armed Forces did not report incidents of arms smuggling from Syria to Lebanon. Notwithstanding that, other officials publicly stated that incidents of transfer of arms and fuel were taking place across the border in both directions.

43. The violence in Syrian towns close to the border with Lebanon prompted an influx of more than 5,000 persons across Lebanon's northern border since the beginning of April 2011. As at late October, over 3,100 Syrian nationals who fled the violence were registered jointly with the Government of Lebanon's High Relief Commission and the Office of the United Nations High Commissioner for Refugees. The United Nations is coordinating closely with the Government of Lebanon on the provision of assistance to the displaced and on matters concerning their protection.

44. Over the reporting period, a number of cross-border incidents involving the Syrian army took place. In some instances, the Syrian army shot across the border into Lebanese territory, targeting individuals who attempted to flee Syria, resulting in at least one person killed. On other occasions, the Syrian Army conducted incursions into Lebanon both across the eastern and the northern borders, some of which extended to three kilometres into Lebanese territory. On one occasion, on 4 October, Syrian armoured personnel carriers raided the border area near Arsal village, causing substantial damage to private properties. Officials from the Lebanese Armed Forces and the Government of Lebanon consulted by the United Nations recognized the occurrence of incidents involving the Syrian army in the vicinity of border areas, but noted that the incidents took place in areas where the border was not delineated or demarcated, or even under dispute in some places. As a result, President Sleiman instructed the Lebanese Armed Forces to undertake contacts with the Syrian army with respect to the incursions so that the sovereignty of Lebanon would be respected.

45. The effective management of the border between Lebanon and the Syrian Arab Republic continued to be adversely affected by the fact that it was neither delineated nor demarcated, and by the continued presence of PFLP-GC and Fatah al-Intifada military bases that straddle the border between the two countries.

E. Landmines and cluster bombs

46. The Lebanese Mine Action Centre, is a unit of the Lebanese Armed Forces, is the national authority for mine action in Lebanon with full responsibility for the management of all humanitarian clearance. In September, the United Nations Mine Action Coordination Centre officially changed its name to the United Nations Mine Action Support Team to better reflect its role after it handed over coordination duties to the Lebanese Mine Action Centre in January 2009. The United Nations Mine Action Support Team continues to support the Lebanese Mine Action Centre in resource mobilization and liaison within its capability.

47. The United Nations Mine Action Support Team continues to provide support to UNIFIL demining activities on the Blue Line. During the reporting period, 12 additional cluster bomb strike locations were recorded, bringing the total to 1,147. The United Nations Mine Action Support Team also provided assistance to the Lebanese Mine Action Centre for victim assistance, as well as support to the Second Meeting of States Parties to the Convention on Cluster Munitions, hosted by Lebanon and held from 12 to 16 September. One hundred and thirty delegations participated in the proceedings, including more than 30 from non-signatory States who attended the Conference as observers.

F. Delineation of borders

48. The Security Council, in paragraph 4 of its resolution 1680 (2006), strongly encouraged the Government of the Syrian Arab Republic to respond positively to the request of the Government of Lebanon to delineate their common border, especially in those areas where the border is uncertain or disputed. The Council reiterated this call in resolution 1701 (2006).

49. No progress was achieved during the reporting period towards the delineation and the demarcation of the border between Lebanon and the Syrian Arab Republic since my last report.

50. There was no progress on the issue of the Shab'a Farms area during the reporting period. In spite of my repeated requests, neither the Syrian Arab Republic nor Israel has responded to the provisional definition of the area contained in my report on the implementation of resolution 1701 (2006) (S/2007/641), issued on 30 October 2007.

III. Security and safety of UNIFIL

51. On 26 July 2011, UNIFIL suffered its second direct terrorist attack within two months, when an explosion caused by a roadside bomb hit a UNIFIL logistics convoy south of the town of Saida, as it passed on the main coastal highway connecting Beirut to southern Lebanon. Six UNIFIL peacekeepers serving with the French contingent were injured, three of whom had to be transported to France for treatment. The attack occurred approximately seven kilometres south of the attack of 27 May that injured six UNIFIL peacekeepers serving with the Italian contingent (see S/2011/406). The Lebanese authorities and UNIFIL immediately launched an investigation into the incident. The French authorities are also investigating. No one has claimed responsibility for the attack. All senior Lebanese authorities, as well as political leaders from across the political spectrum, condemned the attack.

52. The Lebanese authorities informed UNIFIL that they were following a number of leads in the investigations into the two attacks against UNIFIL along the main coastal highway. The investigations were ongoing but no arrests had been made.

53. The 26 July attack demonstrated the persistence of the terrorist threat against UNIFIL, especially along its main supply route outside its area of operations. In response, UNIFIL and the Lebanese authorities held several meetings to discuss the need for additional security measures, and the Lebanese Armed Forces has now reinforced its presence in key locations along UNIFIL's main supply route and accompanies all UNIFIL convoys north of the Litani River. In addition, Internal Security Forces patrols are focusing their activities on the coastal road, especially in the vicinity of Saida. For its part, UNIFIL implemented its own mitigation measures designed to complement the measures taken by the Government of Lebanon. Notwithstanding the obligations of all parties to ensure the safety and security of UNIFIL and the responsibility of the Government of Lebanon to maintain law and order, UNIFIL continuously reviewed its security plans and risk mitigation measures, and applied safety awareness training for its personnel and force protection works for installations and assets. UNIFIL and the Lebanese authorities continued to cooperate to ensure that all security threats are addressed appropriately.

54. UNIFIL continued to observe proceedings in the Lebanese military court against individuals accused of planning to carry out attacks against UNIFIL. On 10 October, 10 individuals accused of possessing weapons and explosives and planning attacks against Lebanese military and security establishments and UNIFIL were sentenced to prison. In a similar case, three individuals appeared in court on 29 September. The court adjourned until 18 November.

IV. Deployment of UNIFIL

55. As at 31 October, the total military strength of UNIFIL was 12,488, including 522 women. As at 31 October, the Force had 353 international and 663 national civilian staff members, of whom 100 and 170, respectively, were women. UNIFIL is also supported by 53 United Nations Truce Supervision Organization military observers of the Observer Group Lebanon, seven of whom are women.

56. UNIFIL has implemented most of the key recommendations of the joint Department of Peacekeeping Operations/UNIFIL technical review. The Irish battalion completed its deployment in late June and reached full operational capability within its area of responsibility. That deployment enabled the French battalion to complete its merger into the Force Commander's reserve, which has become an important asset at the disposal of the Head of Mission and Force Commander.

57. Italy informed the Department of Peacekeeping Operations that it would reduce its contribution to UNIFIL in November, necessitating some reconfiguration of UNIFIL's deployment, particularly in Sector West. At the same time, additional military personnel from Malaysia were deployed in October. The Danish multirole logistics company will be replaced in November by an Austrian multirole logistics company. An additional Indonesian vessel joined the maritime task force in October, and Brazil will deploy a flagship to the maritime task force by mid-November.

58. The Government of Lebanon continued to place land and facilities at the disposal of UNIFIL for its deployment. However, the issue of rental arrears, owed by the Government to private landowners, gave rise to some negative public sentiment against UNIFIL. As a consequence, UNIFIL experienced some minor restrictions in its freedom of movement. On 21 September, the Government of Lebanon approved the payment of outstanding rental arrears to owners of properties used by UNIFIL, some of which dated back many years.

V. Observations

59. I am encouraged that the situation remained generally stable in Lebanon, in particular in the UNIFIL area of operations. I welcome the commitment to resolution 1701 (2006) made by the Government of Lebanon established on 7 July, and its expression of support to UNIFIL. I also welcome the continued commitment by the Government of Israel to the resolution and its support for UNIFIL. I am also encouraged by the commitment of the Governments of Israel and Lebanon to maintaining the cessation of hostilities and by the quick containment of incidents through the established security arrangements, particularly the UNIFIL liaison and coordination mechanism. However, I remain concerned by the stagnation in the

implementation of Security Council resolution 1701 (2006), and I call on both Israel and Lebanon to meet fully their obligations under the resolution.

60. I reiterate my strong condemnation of the attack on 26 July against UNIFIL personnel that injured six peacekeepers. The security and safety of UNIFIL personnel remains a critical priority. The Government of Lebanon is obliged to ensure the safety and security of UNIFIL, including through effective countermeasures, and to bring the perpetrators of all attacks against UNIFIL to justice. I welcome the cooperation of the Lebanese authorities with UNIFIL to improve the protection of the Force's main logistical supply route, as well as the commitments expressed to me in September by President Sleiman and Prime Minister Mikati to do everything possible to protect United Nations personnel.

61. As reiterated in my letter to the Security Council of 5 August (S/2011/488) and my previous reports, the freedom of movement of UNIFIL and the safety and security of its personnel are integral to the effective execution of its tasks. Although UNIFIL conducts most of its operational activities, I am concerned that incidents that impede the freedom of movement of UNIFIL and endanger the safety and security of peacekeepers continue to occur. I am particularly concerned that several of these incidents have included the violent assault of UNIFIL personnel, and some have shown an organized character. This casts doubt on the motives of those involved. The primary responsibility for ensuring the freedom of movement to UNIFIL personnel in the area of operations lies with the Lebanese authorities. I call on the Lebanese authorities to take firm, resolute action against the perpetrators, and to find ways to work with UNIFIL to strengthen the response and the investigation into these incidents. Effective measures must be taken to curb and prevent all incidents that impede the freedom of movement of UNIFIL and endanger the safety and security of peacekeepers.

62. Sporadic tensions and incidents took place during the reporting period, the most serious of which was the brief exchange of fire between soldiers of the Lebanese Armed Forces and Israel Defense Forces on 1 August. I am worried that the situation along the Blue Line remains fragile and is likely to remain so until the outstanding issues between Lebanon and Israel are resolved in accordance with resolution 1701 (2006).

63. In this regard, I reiterate my call on the parties to take advantage of the strategic environment that UNIFIL, in cooperation with the Lebanese Armed Forces, has helped to establish, and to move towards implementing the primary objectives of resolution 1701 (2006), namely, the securing of a permanent ceasefire and a long-term solution to the conflict. It will be difficult to maintain the current strategic environment and the security arrangements unless there is movement towards these objectives.

64. In the meantime, it is imperative that both parties remain fully committed to the cessation of hostilities; fully respect the Blue Line in its entirety; continue working with UNIFIL on pragmatic and constructive confidence-building measures along the Blue Line, including visibly marking the Blue Line; and work to strengthen the liaison and coordination mechanism. I especially want to emphasize that the parties must avoid the use of fire in any circumstances, except where clearly required in immediate self-defence. I call on both parties to act at all times with maximum restraint and responsibility with regard to the cessation of hostilities.

65. There are also other actions that each party must carry out respectively. For Israel, that includes the withdrawal of Israel Defense Forces soldiers from the northern part of Ghajar and the adjacent areas north of the Blue Line and the full cessation of violations of Lebanese airspace. For Lebanon, that includes exercising effective authority over all Lebanese territory and ensuring the implementation of Government decisions and stipulations of resolution 1701 (2006) with respect to an area free of armed personnel, assets and weapons other than those of the Government and of UNIFIL.

66. Five years after UNIFIL significantly expanded its activities and personnel following the adoption of resolution 1701 (2006), it is timely to conduct a strategic review of the Force. I look forward to the strategic dialogue process enabling the Lebanese Armed Forces to start to take on a greater share of the security responsibilities stemming from resolution 1701 (2006). The strategic dialogue aims to identify Lebanese Armed Forces requirements for implementing tasks mandated in resolution 1701 (2006), and facilitate the gradual transfer of responsibilities from UNIFIL to the Lebanese Armed Forces. I am grateful to those countries that provide critical support in equipping and training the Lebanese Armed Forces, including the navy, and urge the international community to increase its support. It remains essential that the international community assist the Lebanese Armed Forces to build its capacity.

67. The political stability that has prevailed in Lebanon since the establishment of the Government on 7 July, including in the light of the release of indictments against four individuals by the Special Tribunal for Lebanon on 30 June, is encouraging. I urge the Government of Lebanon to demonstrate its commitment to all Security Council resolutions in a tangible manner through relevant actions on the ground.

68. I note with concern the increase in the occurrence of security incidents in Lebanon, which highlights the continuous threat posed by armed groups outside the control of the State and by the proliferation of arms in the country.

69. The presence of Hizbullah and other armed groups operating outside the control of the State poses a continuous threat to Lebanon's sovereignty and stability, and hampers the full implementation of resolutions 1559 (2004) and 1701 (2006). I call on Lebanese leaders to persevere in the domestic political process aimed at the disarmament of armed groups operation outside the control of the State. I very much regret that the National Dialogue Committee has been in abeyance for over a year. In this context, and with a new Government now in place, I encourage President Sleiman to reconvene the National Dialogue Committee as soon as possible, and call on Lebanese leaders to make progress towards the adoption of a national defence strategy that would address armed groups operating outside the control of the State and lead to their disarmament. I also call on the Government of Prime Minister Mikati to implement decisions taken in the past by the National Dialogue Committee.

70. I am concerned by the continued presence of the PFLP-GC and Fatah al-Intifada military bases in Lebanon. They pose a challenge to Lebanon's ability to manage its borders and undermine Lebanese sovereignty. I reiterate my call on the Government of Lebanon to dismantle these military bases, as agreed upon by the National Dialogue in 2006 and reiterated since, and on the Government of the Syrian Arab Republic to fully cooperate with these efforts.

71. I call upon all Member States to prevent transfers of arms and related materiel to entities or individuals in Lebanon without the consent of the Lebanese State. I urge the new Government of Lebanon to further its efforts to control the country's borders, including by adopting the comprehensive border management strategy to which the previous Government committed in 2010. I am grateful to Member States that are providing assistance for the improvement of Lebanon's border management capacity, and call upon the international community to support the implementation of Lebanon's comprehensive border strategy once it is adopted.

72. Efforts to delineate and demarcate the common border between Lebanon and the Syrian Arab Republic should proceed without delay, starting with the activation of the joint Lebanese-Syrian border committee. The delineation of the border is critical to a positive relationship between the two countries. I urge the Government of the Syrian Arab Republic to cooperate with the Government of Lebanon in taking concrete and practical steps towards achieving the delineation and demarcation of its common border with Lebanon, in accordance with resolutions 1701 (2006) and 1680 (2006).

73. I also intend to continue my efforts aimed at finding a diplomatic solution to the issue of the Shab'a Farms area in accordance with paragraph 10 of resolution 1701 (2006). I must recognize, however, that these efforts are hampered by the unwillingness of Israel and the Syrian Arab Republic to resolve the issue at this time. I call, once again, upon these two countries to submit their responses to the provisional definition of the Shab'a Farms area that I provided in October 2007 (see S/2007/641).

74. The situation of Palestinian refugees living in Lebanon continues to be a matter of concern. I call on the Government of Lebanon to implement the amendments to the Lebanese Labour Code and Social Security Law that were adopted in August 2010, in order to effectively improve the prospects for employment of Palestinian refugees in Lebanon. I am very concerned by the continued funding shortfalls faced by UNRWA, both for the reconstruction of the Nahr el-Bared camp and for its regular programmes aimed at delivering basic education and health care to the Palestinian refugees. I urge donors, including countries in the region, to continue, and if possible increase, their support for UNRWA. Progress in ensuring the full realization of the rights of Palestinian refugees is without prejudice to the resolution of the Palestinian refugee question in the context of a comprehensive Arab-Israeli peace agreement.

75. I thank my former Special Coordinator for Lebanon, Michael Williams, upon the completion of his tour of duty in Lebanon, for his leadership and devotion in carrying out the important work of the United Nations in Lebanon. I wish to commend the UNIFIL Head of Mission and Force Commander and all the military and civilian personnel of UNIFIL, who continue to play a critical role in helping to promote peace and stability in southern Lebanon, as well as all the staff of the Office of the Special Coordinator for Lebanon.

76. I remain keenly aware that the implementation by Israel and Lebanon of their obligations under resolution 1701 (2006) is influenced by dynamics affecting the region as a whole. In recent months, the region has been swept by a wave of popular protests and political change.

77. I remain deeply concerned about the impact of the crisis in the Syrian Arab Republic on the political and security situation in Lebanon. I strongly deplore the violent incursions and raids into Lebanese towns and villages by Syrian security forces that resulted in death and injury. I call upon the Government of the Syrian Arab Republic to cease such incursions and to respect Lebanon's sovereignty and territorial integrity in accordance with Security Council resolutions 1559 (2004), 1680 (2006) and 1701 (2006). These incursions and the ongoing political and human rights crisis in Syria carry the potential of igniting further tensions inside Lebanon and beyond.

78. I call on both Israel and Lebanon to take the necessary steps to achieve what resolution 1701 (2006) terms a long-term solution governing their relations. It continues to be my profound conviction that achieving that solution and ensuring the full territorial integrity, sovereignty and political independence of Lebanon cannot and should not be dissociated from the need to exert all possible efforts to achieve a just, lasting and comprehensive peace in the Middle East, on the basis of the implementation of Security Council resolutions 242 (1967), 338 (1973) and 1515 (2003).

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Letter dated 15 November 2011 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I would be grateful if you could transmit these assessments to the members of the Security Council.

(*Signed*) Patrick **Robinson**
President

11-59547 (E) 301111

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Annex I

Assessment and report of Judge Patrick Robinson, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004), covering the period from 15 May to 15 November 2011

Contents

		Page
I.	Introduction	3
II.	Measures taken to implement the Completion Strategy	4
	A. Pretrial proceedings	4
	B. Trial proceedings	4
	C. Contempt proceedings	8
	D. Appeal proceedings	10
	E. Access decisions	12
III.	Retention of staff	12
IV.	Referral of cases	13
V.	Outreach	14
VI.	Victims and witnesses	15
VII.	Cooperation of States	16
VIII.	Residual Mechanism	16
IX.	Legacy and capacity-building	19
X.	Conclusion	21

1. The present report is submitted pursuant to paragraph 6 of Security Council resolution 1534 (2004), in which the Council requested the International Tribunal for the Former Yugoslavia to provide to the Council by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions.[1]

2. The report also includes a summary of the measures that the Tribunal is taking to ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals.

I. Introduction

3. At the close of the reporting period, 2 persons indicted by the Tribunal are at the pretrial stage, 16 persons are on trial and 17 persons are in appeal proceedings. With the arrest of Ratko Mladić and Goran Hadžić, there are no outstanding fugitives. To date, the Tribunal has concluded proceedings against 126 of the 161 persons it indicted. The cases of two persons indicted for contempt are at the pretrial stage.

4. During the reporting period, the Tribunal conducted eight trials in its three courtrooms by having Judges and staff work on more than one case at a time. The *Perišić* trial was brought to a close. Two judgements on trials for contempt were rendered.

5. Appeals against six trial judgements are currently pending before the Appeals Chamber. During the reporting period, the judgement on the *Hartmann* appeal was rendered. The Judges of the Appeals Chamber also remained fully engaged in appeals from the International Criminal Tribunal for Rwanda, rendering two judgements and hearing two cases.

6. The Tribunal continues to take all measures possible to expedite its trials without sacrificing due process. Over the years, the Tribunal has continually kept its procedures under review and has introduced a variety of reforms in order to improve its work. However, the pace of the Tribunal's trials and appeals has continued to be affected by staffing shortages and the loss of highly experienced staff members. Despite resolutions by the General Assembly and the Security Council on the issue, staff retention continues to be a problem. Without practical and effective staff retention measures, the Council should expect the estimates for the completion of the core work of the Tribunal to continue to have to be revised in subsequent reports.

[1] The present report should be read in conjunction with the previous 15 reports submitted pursuant to Security Council resolution 1534 (2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007; S/2007/663 of 12 November 2007; S/2008/326 of 14 May 2008; S/2008/729 of 24 November 2008; S/2009/252 of 18 May 2009; S/2009/589 of 13 November 2009; S/2010/270 of 1 June 2010; S/2010/588 of 19 November 2010; and S/2011/316 of 18 May 2011.

7. The Tribunal has transferred all accused of intermediate or lower rank from its trial docket in accordance with Security Council resolution 1503 (2003). The Prosecutor, with the assistance of the Organization for Security and Cooperation in Europe (OSCE), continued to monitor the progress of referred proceedings still under way in the region.

8. The Outreach Programme intensified its efforts to bring the Tribunal closer to the communities in the former Yugoslavia. The Tribunal took initiatives to provide assistance and support to victims. In the area of State cooperation, the arrests of Ratko Mladić and Goran Hadžić constitute a milestone in the work of the Tribunal. The Tribunal continued its efforts to ensure a smooth transition to the Residual Mechanism and continued to pursue a number of legacy and capacity-building projects.

II. Measures taken to implement the Completion Strategy

9. Despite the many challenges faced during the reporting period, the Trial and Appeals Chambers continued to take all measures within their power to expedite their proceedings, while still fully respecting the rights of the accused. An appreciation of the steps taken by the Chambers to guarantee that proceedings are conducted in a fair and expeditious manner can be gained through an understanding of the context of each case. Accordingly, a brief summary of the cases currently before the Tribunal, as well as the solutions adopted to meet the specific challenges raised by them, is provided below.

A. Pretrial proceedings

10. In the case of *Prosecutor v. Ratko Mladić*, the accused was arrested on 26 May 2011 and transferred to the seat of the Tribunal on 31 May 2011. The accused has made his initial and subsequent appearances and the pretrial work has commenced, with deadlines being set for various submissions by the parties. On 13 October 2011, the Chamber issued its decisions on the Defence's preliminary motion alleging defects in the indictment and on the Prosecution's motion to sever the indictment. Both motions were denied. Since the trial was still at an early stage of the proceedings, it is difficult to estimate when it will start. However, the preliminary assessment is that the trial will not commence before November 2012.

11. In the case of *Prosecutor v. Goran Hadžić*, the accused was arrested on 20 July 2011 and transferred to the seat of the Tribunal on 22 July 2011. On 25 July 2011, the accused made an initial appearance. At a subsequent appearance, on 24 August 2011, the accused pleaded not guilty. Disclosure is under way, as are other preparations for the trial. The first status conference was held on 10 November 2011. The preliminary assessment is that the trial will commence in January 2013.

B. Trial proceedings

12. In the case of *Prosecutor v. Momčilo Perišić*, the judgement, which was anticipated to be rendered in August, was delivered on 6 September 2011. Momčilo Perišić, the most senior officer of the General Staff of the Yugoslav Army, was

found guilty of aiding and abetting murders, inhumane acts (injuring and wounding civilians and forcible transfer), attacks on civilians and persecutions committed in Sarajevo and Srebrenica. In relation to Srebrenica, he was acquitted of extermination. He was found guilty of failing to punish his subordinates for the crimes of murder, attacks on civilians and inhumane acts (injuring and wounding civilians) in Zagreb. He was sentenced to 27 years of imprisonment.

13. In the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, the accused were charged with four counts of crimes against humanity and one count of war crimes. The estimate of this case has been revised by four months owing to some of the uncertainties and difficulties indicated in the previous report, in particular the uncertainty of how long the Defence case will last. This case still requires careful and effective case management, considering the factors described in previous reports that affect the pace of the trial, namely the relatively new Defence team of Franko Simatović and the health of Jovica Stanišić. Since the previous report, the Chamber has granted the Defence teams 140 hours to present their cases. This means that the Defence case would conclude in May 2012 and that the judgement would be delivered in September 2012. The Stanišić Defence case commenced with an opening statement on 15 June 2011 and the hearing of the first witness on 21 June 2011. During the hearing of the first nine witnesses of the Defence, the Chamber spent more court time than expected on procedural matters, in particular owing to numerous applications for protective measures and late submissions of Rule 92 *ter* statements. On 22 August 2011, upon a request by the Stanišić Defence for a four-month adjournment, the Chamber granted an adjournment of four weeks. Although the legal team has been fully staffed since April 2011 (almost two years after the start of the trial), some of the team members, as well as the Presiding Judge, have also been working on the pretrial preparations for the *Mladić* case since June 2011. During the reporting period, the Chamber kept its regular sitting schedule of three days per week. The judgement is scheduled to be issued in November 2012.

14. The case of *Prosecutor v. Jadranko Prlić et al.*, which involves six accused, is an exceptionally complicated trial, involving 26 counts of war crimes and crimes against humanity, related to approximately 70 sites, allegedly committed by Bosnian Croats against Bosnian Muslims in Bosnia and Herzegovina from 18 November 1991 to around April 1994. The estimated date for the delivery of the judgement remains unchanged since the last report. The Chamber is currently preparing the trial judgement in the case. However, Presiding Judge Jean-Claude Antonetti is also serving as the Presiding Judge in the *Šešelj* trial and Judge Antoine Kesia-Mbe Mindua sits on the bench in the *Tolimir* and *Hadžić* cases. The Chamber has suffered from a high rate of staff turnover. Since the beginning of the trial, four P-5 Senior Legal Officers have been assigned to the case in succession; the same is true of two P-4 Legal Officers and three P-3 Legal Officers. Presently, the legal support team has five P-2 Associate Legal Officers and two P-3 Legal Officers. The P-4 Legal Officer is currently acting as the P-5 for both the *Prlić et al.* and *Šešelj* trials. As a consequence, the *Prlić et al.* trial has no P-4 Legal Officer. The assignment of the Judges to other trials and constant staff attrition in this trial may affect the time needed for the Chamber to prepare the judgement. The estimate for the delivery of the judgement remains June 2012.

15. In the case of *Prosecutor v. Vojislav Šešelj*, the accused, who is defending himself, is charged with nine counts of crimes against humanity and violations of

the laws or customs of war allegedly committed in the territory of Croatia, in large parts of Bosnia and Herzegovina and in the province of Vojvodina, Serbia, from August 1991 to September 1993. The estimated date for the delivery of the judgement remains unchanged since the last report. On 28 October 2011, the Trial Chamber filed a public redacted version of the report of the *amicus curiae* appointed to investigate Šešelj's allegations of intimidation of witnesses by the Prosecution. In his report, the *amicus curiae* found that there were insufficient grounds to instigate contempt proceedings against any identifiable person in the case. The Trial Chamber is expecting to hear the observations of both parties before ruling on Šešelj's allegations. Taking the foregoing into account, as well as the need for the Chamber to render decisions on two voluminous requests recently filed by Šešelj, the Chamber has ordered that final briefs be submitted by 5 February 2012 and that closing arguments be heard on 5 March 2012. The team of lawyers assisting the Trial Chamber on the *Šešelj* case is understaffed: at the beginning of the case, the team was composed of six staff members (one P-3 and five P-2); due to the significant turnover of staff working on the case, the team was composed until May 2011 of only three staff members and is currently composed of five staff members (one P-3 and four P-2). The current P-3 is expected to leave on 30 November 2011 and to be replaced only in January 2012. A P-4 Legal Officer is currently acting as the P-5 in both the *Šešelj* and *Prlić et al.* trials. This may adversely affect the work of the Trial Chamber. This case is also affected by the fact that the accused, unlike the other accused before the Tribunal, works only in Bosnian/Croatian/Serbian and refuses to use e-Court, which results in extended translation-related delays. The estimate for the delivery of the judgement remains September 2012.

16. In the case of *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, the accused are charged with 10 counts of crimes against humanity and violations of the laws or customs of war for crimes allegedly committed in concert with other members of a joint criminal enterprise against Bosnian Muslims and Bosnian Croats in Bosnia and Herzegovina between 1 April and 31 December 1992. Mićo Stanišić was Minister of Internal Affairs of Republika Srpska during that period and Stojan Župljanin was Chief of the Regional Security Services for Banja Luka. The geographical scope of the indictment in this case is vast, as a similar number of municipalities are involved in this case as are involved in the *Karadžić* trial. The estimate for the completion of trial has been revised by three months.

17. The Prosecution case commenced on 14 September 2009 and closed on 1 February 2011. During that time, the Trial Chamber heard 125 witnesses over a period of 238 sitting days. The evidence provided by a further 39 witnesses was admitted in written form. Presentation of evidence for the first accused, Mićo Stanišić, commenced on 11 April 2011 and closed on 20 July 2011. The Trial Chamber heard evidence from seven witnesses over 57 court days and admitted the written evidence of a further two witnesses. The case for the second accused, Stojan Župljanin, opened on 5 September 2011 and is currently expected to last approximately 50 court days; it is expected that 15 witnesses will be called to testify. To date, six witnesses have testified. As in the prosecution phase of the trial, the Chamber is sitting continuously five days a week; but, as anticipated in previous reports, the pace of the proceedings has been slowed by the concurrent scheduling of the *Haradinaj et al.* partial retrial, to which two of the three Judges have also been assigned. Consequently, each case is sitting for two weeks at a time and is expected to continue in this way until the court winter recess and possibly beyond.

18. On the basis of the most recent information available, the Trial Chamber currently projects that it will be possible for the presentation of evidence by the second accused to be completed by the end of January 2012 and for the closing arguments to be made in April 2012. This includes time for rebuttal and rejoinder evidence, together with the hearing of any Chamber witnesses. The anticipated date for delivery of the judgement has been extended by a period equivalent to the time lost owing to the concurrent scheduling of the *Haradinaj et al.* partial retrial. The judgement is now expected to be delivered in December 2012.

19. In the case of *Prosecutor v. Radovan Karadžić*, the accused — the former President of Republika Srpska — is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war in Sarajevo, Srebrenica and 20 other municipalities throughout Bosnia and Herzegovina. The estimate for the completion of the trial has been revised by one month.

20. The extensive use of Rule 92 *ter* as a mode of presenting the Prosecution's evidence continues to affect the speed of the trial. Although Rule 92 *ter* constitutes an in-court time-saving measure by which a written statement is submitted in place of *viva voce* testimony, the Chamber must analyse the written evidence, which in some cases is hundreds of pages long and may require more time than is already necessary for the preparation of the judgement. In addition, due to the extremely voluminous nature of the written evidence, it is also often necessary to give Karadžić significantly more time for the cross-examination of each witness than is used by the Prosecution for its examination-in-chief. During the reporting period, the Chamber has continued to take a firmer stance to ensure that time limits for cross-examination set by the Chamber are adhered to. This firmer stance has resulted in an overall reduction in the time used by Karadžić for the cross-examination of some witnesses. Furthermore, the Prosecution continues to disclose a voluminous quantity of material. At the end of May 2011, the Trial Chamber had to suspend the trial for an additional week to allow Karadžić to review a large batch of material disclosed by the Prosecution. Since then, the Chamber has issued decisions on nine further motions for disclosure violations and found violations in all instances.

21. As with teams assigned to other ongoing trials, the legal team assigned to the *Karadžić* Chamber is understaffed and subject to a high turnover rate. This staffing shortage will continue to effect the time required to deal with the ongoing motions and practical issues arising during the course of the trial and to conduct the necessary analysis of evidence. Since the start of the proceedings, the Trial Chamber has coped with a significant out-of-court workload, dealing with approximately 578 motions and issuing 426 written decisions. Already, more than 5,507 documents have been admitted into evidence, 123 witnesses called by the Prosecution have been heard and judicial notice of approximately 2,300 adjudicated facts has been taken. The latest estimate for the completion of the trial is July 2014.

22. In the case of *Prosecutor v. Zdravko Tolimir*, the accused, who is defending himself, is charged with eight counts — including charges of genocide, murder, extermination and forcible transfer — arising from events at over 20 crime sites. The estimated date for the delivery of the judgement remains unchanged since the last report.

23. In November 2010, the Chamber indicated that the Prosecution could complete its case by the summer recess of 2011. During the following months, the Chamber

made efforts to attain that goal. Following the Chamber's request in early May 2011 that the Prosecution further streamline its case, the Prosecution dropped some witnesses and the goal of completing the case by the summer recess was almost achieved. However, the Prosecution required just over three weeks after the summer recess to present the evidence of all but one of its remaining witnesses. This additional time was needed in large part because the testimony of a few witnesses had lasted longer than anticipated. It should be noted, however, that the Prosecution has taken less time for its case than it had requested in October 2010. The parties will not be making oral submissions pursuant to Rule 98 *bis*. The Chamber ordered on 20 September 2011 that the Prosecution case would be considered closed on 27 September 2011 (except for the possible testimony of one witness and certain pending decisions) and that the first Defence witness should testify on 11 January 2012 or, if there is no opening statement, on 10 January 2012. The Defence has stated that its case will last roughly one month. As was pointed out in the last report, as in other complex cases, the Chamber will require a considerable amount of time to prepare the judgement. The estimate for the completion of the case remains the end of October 2012.

24. Notably, had Tolimir been transferred earlier to the custody of the Tribunal, he could have been tried with his co-accused in the *Popović et al.* trial. However, he is now being tried alone in a separate case.

25. The case of *Prosecutor v. Ramush Haradinaj et al.* is the first retrial at the Tribunal and involves six counts of violations of the laws or customs of war allegedly committed in Kosovo in 1998 against Serbians, Kosovo Albanians, Kosovo Albanian Roma and other civilians perceived to have collaborated with the Serbian forces or not to have supported the Kosovo Liberation Army. The previous estimate, according to which the retrial would last approximately 13 months from opening statements to the delivery of the judgement, remains unchanged since the last report. That estimate takes into account the fact that two of the Judges of the Trial Chamber, Burton Hall and Guy Delvoie, are also sitting on another trial. The retrial commenced on 18 August 2011, after the Appeals Chamber confirmed on 31 May 2011 the scope of the indictment and the evidence that the parties may seek to present. The Prosecution intends to call 56 witnesses to testify. The three accused have raised a number of procedural issues. While the Trial Chamber has admitted the evidence of a large number of witnesses in written form, which has expedited the proceedings, there are difficulties with securing the availability of Prosecution witnesses, which may cause some delay. The estimate for the delivery of the judgement, however, remains August 2012.

C. Contempt proceedings

26. The Tribunal's administration of justice continued to be disrupted by contempt allegations; however, the Tribunal is taking what measures it can to ensure that all contempt cases are concluded as quickly as possible and without disrupting the ongoing trial processes.

27. The accused in the case of *Prosecutor v. Shefqet Kabashi* was arrested in the Netherlands on 17 August 2011 and transferred to the Detention Unit of the Tribunal the following day. At a subsequent appearance, on 26 August 2011, Kabashi pleaded guilty to the charges against him and the Chamber, after having accepted the plea,

heard sentencing submissions by the parties on 31 August 2011. The sentencing judgement was delivered on 16 September 2011. None of the parties have appealed.

28. In the case of *Prosecutor v. Vojislav Šešelj* (case No. IT-03-67-R77.3), the accused is charged with contempt for the Tribunal for knowingly disclosing in one of his books the identifying information of 11 protected witnesses. A date for trial was set immediately after a specially appointed Chamber denied Šešelj's application for the disqualification of two of the Judges on 19 November 2010. A pretrial conference was held on 22 February 2011, immediately after which the trial started. The *amicus curiae* Prosecutor's case was heard and closed on the same day. Šešelj moved for the adjournment of the start of his Defence case pending resolution by the Appeals Chamber of the financing of his defence. The Defence case was heard between 6 and 8 June 2011, closing arguments were heard on 8 June 2011 and the judgement was delivered on 31 October 2011.

29. In the case of *Prosecutor v. Vojislav Šešelj* (case No. IT-03-67-R77.4), the Trial Chamber is prosecuting the accused for contempt for the Tribunal for failing to comply with orders of the Trial Chamber to remove from his website books that reveal confidential information on witnesses. On 9 May 2011, the Trial Chamber issued an order in lieu of an indictment regarding three books. On 6 July 2011, the accused pleaded not guilty. On 21 October 2011, the Trial Chamber amended the order in lieu of an indictment to include the failure by Šešelj to remove a fourth book from the website. The accused made an appearance on 4 November 2011 regarding this new charge. The case is ready for trial and will be scheduled keeping in mind the other trials to which the Judges have been assigned.

30. In the case of *Prosecutor v. Jelena Rasić*, the accused is charged with five counts of contempt for the Tribunal for procuring false witness statements for use by the Defence during the *Lukić and Lukić* trial. The accused made her initial appearance on 22 September 2010 and was granted provisional release on 12 November 2010. On 2 May 2011, the Prosecution filed a list of 12 witnesses. The obligation to attend in person has been dispensed with for five of the witnesses; in these cases, written evidence will be admitted pursuant to Rule 92 *bis*. Four witnesses have been requested to come for cross-examination pursuant to Rule 92 *ter*. Three witnesses will be called to testify *viva voce*. The Defence has indicated that it will call four of its five witnesses to testify in person and that it will require four to five hearing days to do so. It is estimated that the trial will last two to three weeks and that the judgement will be issued shortly thereafter. The trial is scheduled to commence on 9 January 2012, by agreement of the Presiding Judges of the other trials to which the Judges assigned to this case have been assigned.

31. In the *Florence Hartmann* case, the appellant challenged her conviction for contempt for the Tribunal for disclosing information related to the *Slobodan Milošević* case in violation of orders of a Chamber. On 19 July 2011, the Appeals Chamber rejected the appeal in its entirety.

32. On 21 September 2011, the Chamber in the *Tolimir* trial issued an order in lieu of indictment against Dragomir Pećanac for contempt for having failed to comply with a subpoena. The accused was transferred to the seat of the Tribunal on 9 October 2011. The pretrial proceedings are still at an early stage.

D. Appeal proceedings

33. In the case of *Prosecutor v. Milan Lukić and Sredoje Lukić*, the projected time frame for delivery of the appeal judgement has been revised since the last reporting period by eight months. The revision is largely attributable to three factors: half the team working on the case left the Tribunal and was replaced by a new Senior Legal Officer and an Associate Legal Officer; the workload relative to appeal cases of the International Criminal Tribunal for Rwanda for the Judges and staff; and the Chamber has had to deal with several motions seeking the admission of additional evidence on appeal, which has led to supplementary documents being filed in August by the parties. The appeal hearing was held on 14 and 15 September 2011. It is estimated that the judgement will be rendered in June 2012.

34. In the case of *Prosecutor v. Nikola Šainović et al.*, the projected time frame for delivery of the appeal judgement has been revised since the last reporting period by five months. The revision is attributable to a shortage of staff.

35. All five persons convicted at trial have filed an appeal and the Prosecution has likewise appealed. The operative submissions of all appellants amount to around 4,300 pages, making this an unusually large appeal proceeding. Because of the work needed to appeal a 1,743-page trial judgement and in order to safeguard the fairness of the proceedings, a number of time extensions were granted. Although the primary phase of the appellate briefing was completed in February 2010, supplementary submissions continued to be filed as a result of three factors: the admission of additional evidence on appeal; the acceptance of *amicus curiae* briefs on appeal; and amendments made to the grounds of appeal. With respect to the last factor, translation of the trial judgement into Bosnian/Croatian/Serbian — originally projected for completion in April 2010 — was only finalized in September 2010. Thereafter, the Defence appellants were permitted to review the trial judgement in Bosnian/Croatian/Serbian and to seek to amend their existing grounds of appeal, which two of the Defence appellants did. By September 2011, all motions related thereto had been decided, eventually dismissing any requested amendments.

36. Serious difficulties have been encountered in relation to continuous changes in the composition of the legal support staff assigned to this appeal due to attrition and the use of short-term temporary contracts. Five of the six current team members joined in the second half of 2010 or in 2011. One team member left in June 2011 and one joined with a delay of five months. This has seriously affected the ability to make progress in the appeal. The fact that replacement staff needed time to become familiar with the specifics of the case and the working methodology of the team has contributed to the extension of the initial estimate for completion of the case. Likewise, the temporary assignment of two team members — one for more than nine months — to assist the *Lukić and Lukić* legal support staff has had an impact on the pace of the appeal. In addition, one experienced member of the drafting team left for maternity leave at the end of September and will not be back before March 2012. The renewed managerial focus on the larger issue of inadequate staffing in the Appeals Chamber intends to bring about a state of equilibrium in the *Šainović et al.* legal support team. This will be crucial if the case is to meet its deadlines for a July 2012 hearing and July 2013 delivery of the judgement.

37. In the case of *Prosecutor v. Vujadin Popović et al.*, five of the seven persons convicted at trial have filed an appeal, and the Prosecution has also appealed.

Proceedings involving one of the two remaining persons convicted at trial were suspended for health reasons and continue to be the subject of a forensic medical evaluation. The seventh person convicted at trial waived his right to appeal. The estimate for this appeal remains the same since the last report. The *Šainović et al.* and *Popović et al.* trials were the first two of three mega-trials created by decisions of the Joinder Bench in 2006. This special panel was formed to consider combining similar indictments to reduce the overall number of separate trials and thereby expedite the work of the Tribunal. Owing to an extended briefing schedule ordered to safeguard the fairness of the proceedings in view of the massive size of the appeal, the filing of all briefs and supplemental books of authorities was completed in early May 2011. Following an additional period of about three months wherein the parties submitted more files, corrigenda and public redacted versions of their briefs as required, the operative submissions of all appellants totalled 5,520 pages. The briefing stage of the appeal process was followed by a number of confidential motions to present additional evidence to the Appeals Chamber and the first decision on such motions was issued on 20 October 2011. The legal support for this mega-appeal was provided by only two full-time legal officers until mid-September 2011, when a third legal officer was redeployed from the Trial Chamber to the support team. Under current projections, the team will not be fully staffed until January 2012, 19 months after the trial judgement was delivered and 8 months after the briefing was completed. As a result, the current projected estimate of delivery of the appeal judgement of December 2013 may require revision.

38. In the case of *Prosecutor v. Vlastimir Đorđević*, both the Prosecution and Đorđević filed appeals. The estimated date for the delivery of the judgement remains unchanged since the last report. The briefing was completed by the end of October 2011. The Defence is still waiting for the translation of the judgement. It is estimated that the hearing will be held early in 2013 and that the appeal judgement will be delivered in October 2013.

39. In the case of *Prosecutor v. Ante Gotovina and Mladen Markač*, both Ante Gotovina, who held the rank of Colonel General in the Croatian army and was the Commander of the Split Military District, and Mladen Markač, who held the position of Assistant Minister of the Interior in charge of Special Police matters, have appealed. The trial judgement in this case was delivered on 15 April 2011 and the appeal briefing concluded, on schedule, on 27 September 2011. The case is currently being prepared for the hearing, which is currently projected to be held in March 2013. The judgement is expected to be delivered in August 2013.

40. During the reporting period, the Appeals Chamber of the International Criminal Tribunal for Rwanda delivered two judgements, in the *Setako* and *Munyakazi* cases. It also heard appeals against the judgement rendered in the *Ntabakuze* and *Ntawukulilyayo* cases. The Appeals Chamber expects to deliver two more judgements by the end of 2011, on the *Bagosora and Nsengiyumva* and *Ntawukulilyayo* cases, and to hear two further appeals against the judgement rendered in the *Kanyarukiga* and *Hategekimana* cases.

41. Despite the best efforts of the International Tribunal for the Former Yugoslavia, it is currently anticipated that it will have difficulty in completing any appeals in the cases of *Prlić et al.*, *Šešelj* and *Tolimir* by 31 December 2014, as indicated in Security Council resolution 1966 (2010) (see enclosure VIII). Furthermore, appeals in the cases of *Karadžić*, *Mladić* and *Hadžić*, if any, are likely

to be filed after 1 July 2013 and will therefore be determined by the Residual Mechanism, pursuant to Security Council resolution 1966 (2010).

E. Access decisions

42. The bench constituted to decide requests for access to confidential information for use in national proceedings under Rule 75 (H) continued to function in an efficient manner, rendering five decisions during the reporting period.

III. Retention of staff

43. As the Tribunal nears the end of its mandate, highly qualified and essential staff continue to leave it for more secure employment elsewhere. Moreover, the Tribunal is in a downsizing phase despite being at its highest level of productivity, with only a negligible increase in its staffing levels since the biennium 2006-2007. The loss of the Tribunal's experienced staff has significantly affected proceedings and placed an onerous burden upon remaining staff. It has resulted in delays in the completion of the work of the Tribunal, which has in turn placed a heavier financial burden on the international community.

44. In June 2010, the Security Council responded to the pleas of the Tribunal for assistance by passing resolution 1931 (2010), in which it noted the importance of the Tribunal being adequately staffed to complete its work expeditiously and called upon the Secretariat and other relevant United Nations bodies to continue to work with the Registrar of the Tribunal in order to find practicable solutions to address that issue as the Tribunal approached the completion of its work. In December 2010, the Council passed resolution 1954 (2010), in which it reiterated the importance of the Tribunal being adequately staffed to complete its work expeditiously and called upon the Secretariat and other relevant United Nations bodies to continue to work with the Registrar of the Tribunal in order to find practicable solutions to address that issue as the Tribunal approached the completion of its work. In June 2011, the Council passed resolution 1993 (2011), in which it reiterated the importance of the Tribunal being adequately staffed to complete its work expeditiously and called upon relevant United Nations bodies to intensify cooperation with the Secretariat and the Registrar and to take a flexible approach in order to find practicable solutions to address the issue.

45. Despite the adoption of those three resolutions, significant results have not been achieved and the Tribunal is still seeking support for two specific measures, set out in paragraphs 46 and 47 below, that will assist in the retention and replacement of its staff.

46. First, the Tribunal believes that it is essential for consideration to be given to a retention incentive for its long-serving and loyal staff members. This would be a limited payment to staff members with more than five years of continuous service who remain until the abolition of their posts. In 2008, the Advisory Committee on Administrative and Budgetary Questions endorsed the payment of a retention incentive (A/62/734, para. 14). The report of the Secretary-General on this issue included calculations demonstrating that the eventual cost of the retention payment would be more than offset by the savings associated with reduced turnover rates in

terms of lower rotation and higher productivity and efficiency (A/62/681, para. 43). Providing staff members with a direct financial incentive to stay until the date of abolition of their posts has proved highly effective in other downsizing organizations. In the long run, the retention of experienced staff is the most efficient and cost-effective approach for the Tribunal to adopt because the cost of replacing staff who leave is greater than the cost associated with the proposed retention incentive.

47. Second, as the Tribunal reaches the end of its work, it is likely that the rate of staff attrition will accelerate if effective action is not taken. It is therefore necessary that the Tribunal have mechanisms in place to allow it to quickly and effectively replace staff in critical positions. The Tribunal has been fortunate to be able to attract a number of highly qualified interns, some of whom would make ideal candidates for P-2 posts. This is particularly true in Chambers where there is a high rate of attrition among junior staff and where considerable time is required for new staff to familiarize themselves with the work of Chambers. Unfortunately, under the current regulations, interns cannot apply for posts in the Professional category for six months after the completion of their internships. The Tribunal is therefore in need of a waiver so that it can tap into this resource and expand the pool of qualified and experienced candidates. This would have a direct, positive impact on the expeditious completion of trial and appellate activity. There would be no adverse financial consequences to waiving the six-month rule and former interns would have to apply through the regular staff selection process (Inspira). The Office of Human Resources Management has indicated that it does not have any objection to the waiver for the six-month break-in-service requirement for interns so that they can apply for posts at the Tribunal.

48. The Tribunal renews its plea for the international community to exercise foresight and assist the Tribunal with measures to retain and replace its staff. The longer this problem continues, the longer the work of the Tribunal will be extended, and the more money it will cost the international community in the long run.

IV. Referral of cases

49. Between 2005 and 2007, the Tribunal referred a total of eight cases, involving 13 accused of intermediate or lower rank, to national jurisdictions in accordance with Security Council resolutions 1503 (2003) and 1534 (2004). This significantly reduced the overall workload of the Tribunal, making it possible to bring the cases of the most senior leaders to trial as quickly as possible. The referral of these cases to national jurisdictions also served to forge the Tribunal's relationship with national judiciaries of States in the former Yugoslavia and to strengthen the capacity of those jurisdictions in the prosecution and trial of violations of international humanitarian law.

50. The decisions on the referral of cases were made by a specially appointed Referral Bench, and, in some cases, appeals were made against them. As a result, 10 accused were transferred to Bosnia and Herzegovina, 2 to Croatia and 1 to Serbia. Requests for the referral of four accused were denied owing to the level of responsibility and the gravity of the crimes charged, which required the cases to be heard before the Tribunal. Possibilities for referrals were maximized. Accordingly,

no cases eligible for referral according to the seniority criteria set by the Security Council remain before the Tribunal.

51. Of the proceedings against the 13 persons transferred to national jurisdictions, 12 have been concluded. Proceedings against Vladimir Kovačević have been suspended until the outcome of a determination by the Basic Court Kraljevo in Serbia as to whether he is fit to stand trial. The Prosecution continues to monitor this case with the assistance of OSCE.

V. Outreach

52. The recent arrests of Ratko Mladić and Goran Hadžić, the last two fugitives, have focused international and regional attention on the Tribunal and rekindled interest in the role it plays in transitional justice efforts in the region of the former Yugoslavia. The Outreach Programme has worked diligently in the region to ensure that the Tribunal's achievements are recognized and that the communities are able to take ownership of them.

53. The Programme intensified its efforts to bring the Tribunal closer to the communities in the former Yugoslavia. Field offices in Sarajevo, Belgrade, Zagreb and Priština held a number of events in local communities with young people, members of civil society and victims, and continued to cultivate contacts and provide accurate information to the local media. A more systematic approach to coordination with local civil society was achieved through monthly meetings with local non-governmental organizations in the region, which ensured a better flow of information and more joint activities.

54. A wealth of other outreach activities were conducted during the reporting period. Some 200 people from the region came to the Tribunal on study visits, where they gained an in-depth look at the work of the Tribunal. The Outreach Programme partnered with local non-governmental organizations to organize debates on the Tribunal's legacy and to bring young lawyers from the region to work as interns at the Tribunal. After organizing successful visiting programmes at 15 high schools in Kosovo, the Programme received generous support to expand its youth education project to schools in Bosnia and Herzegovina, Croatia and Serbia, as well as to continue its efforts in Kosovo. The ministries of education of Bosnia and Herzegovina and Serbia approved the holding of presentations by the Programme in high schools in those countries.

55. The Tribunal's state-of-the-art multilingual website remained one of the most valuable tools for the Outreach Programme, with 21 per cent of the visitors coming from the former Yugoslavia. June 2011 was a record-breaking month, with more than 420,000 page views registered for the Tribunal website, the highest monthly total since the website's launch in 2008. The Outreach Programme launched a new web feature on legal aid and the prosecution of crimes of sexual violence, and produced and distributed a feature-length documentary entitled "Sexual violence and triumph of justice", which was promoted at events held in the countries of the region and in The Hague. The number of Twitter and YouTube subscribers in the former Yugoslavia has risen steadily since the Programme started using these platforms in October 2010, confirming that the adoption of social media has been one of the most successful communications decisions of the Tribunal. This success is measured by the fact that the Tribunal has over 1,900 followers on Twitter, 900 of

which joined during the reporting period, and that over 530,000 views were registered on YouTube, 39 per cent of which were from the region.

56. To continue reaching out to the public in the former Yugoslavia, the Outreach Programme depends on external funding. A contribution from the European Commission will ensure the continued existence of the Programme until the end of 2012, and the Government of Finland has generously supported youth education projects. The Tribunal notes the generous support and cooperation of the OSCE Mission to Serbia. However, more funds are needed for specific projects envisaged for the future. Pursuant to General Assembly resolution 65/253, in which the Assembly reiterated the importance of carrying out an effective outreach programme and encouraged the Secretary-General to continue to explore measures to raise adequate voluntary funds, the Tribunal will be approaching States and other donors in the coming months for more support.

VI. Victims and witnesses

57. More than 6,900 witnesses and accompanying persons from all over the world have been called to appear before the Tribunal. Most witnesses come from diverse and remote locations within the former Yugoslavia. Without the courage of these witnesses to step forward and give evidence, there would be no trials and impunity would reign. Yet, many witnesses have experienced a range of difficulties resulting from their decision to give evidence before the Tribunal, in addition to the suffering and loss they have had to endure during the conflicts in the region. The Tribunal's resources are simply incapable of meeting their needs.

58. Victims of the conflict in the former Yugoslavia have a right to compensation under international law for the crimes committed against them. In previous reports, the Security Council was called upon to establish a trust fund for victims of crimes falling within the Tribunal's jurisdiction, considering the legal bases for such compensation, including the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34). The Tribunal has received a wellspring of positive responses to this initiative from victims of the atrocities that were committed during the destructive dissolution of Yugoslavia during the 1990s.

59. The Tribunal has been taking initiatives to establish a system for providing assistance and support to victims and, towards this end, is partnering with the International Organization for Migration to receive guidance on suitable and feasible assistance measures and options for funding to support those measures. The Tribunal calls upon the Security Council to take whatever steps are necessary to lend its support to those initiatives, which, it stresses, will not impose any obligations upon States to provide funding, but rather contemplate voluntary contributions. The establishment of a trust fund for victims of crimes falling within the Tribunal's jurisdiction would bring the position of the Tribunal somewhat closer to the International Criminal Court, which already has a trust fund for its victims. The Tribunal cannot, through the rendering of its judgements alone, bring peace and reconciliation to the region; other remedies should complement the criminal trials if lasting peace is to be achieved and one such remedy should be adequate reparations to the victims for their suffering.

VII. Cooperation of States

60. The arrests and transfer to the Tribunal of Ratko Mladić and Goran Hadžić, a milestone in the work of the Tribunal, is the result of years of effort by States to locate and transfer these two former fugitives to the jurisdiction of the Tribunal so that they can face the judicial process.

VIII. Residual Mechanism

61. On 21 May 2009, the Secretary-General published his report on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals (S/2009/258). On 8 October 2009, the Secretary-General advised the International Tribunal for the Former Yugoslavia of the endorsement by the Security Council of the recommendations contained in the report and requested the Tribunal to comply with the recommendation in paragraph 259 (m) and report, in detail, on its implementation of the tasks set out in paragraph 259 (l).

62. On 22 December 2010, the Security Council adopted resolution 1966 (2010), in which it decided to establish the International Residual Mechanism for Criminal Tribunals with two branches, one for the International Criminal Tribunal for Rwanda and one for the International Tribunal for the Former Yugoslavia, which will commence functioning on 1 July 2012 and 1 July 2013, respectively.

63. Below is a summary of the work that is being done to close the Tribunal and to ensure a smooth transition to the Residual Mechanism.

Transfer of functions to the Residual Mechanism

64. The Tribunal has established a Residual Mechanism Steering Committee to identify areas for action in relation to the transfer of functions from the Tribunal to the Mechanism, in coordination with the International Criminal Tribunal for Rwanda, the Office of Legal Affairs of the Secretariat, the Archives and Records Management Section and the Informal Working Group on International Tribunals of the Security Council. A multitude of factors has been considered in planning the operations of the Residual Mechanism and the transfer of functions, including the resources and work processes required to exercise the judicial and prosecutorial functions transferred to the Mechanism, the long-term institutional interests of the Mechanism, the budgetary implications and the need to ensure the continued provision of support and assistance to the Tribunals as they complete their mandates.

Downsizing

65. Despite the extension of some posts following the approval of the revised budgetary estimates at the end of 2010, the downsizing process continues. Using a comparative review process, the expiration of dates of contracts of specific staff have been synchronized to the post abolition dates. The Tribunal endeavours to limit the number of staff departures by managing the abolition of posts in combination with natural attrition. The comparative review exercise for post reductions in 2012

and 2013 has just been completed. By conducting this exercise as early as possible, staff have been provided with the maximum contractual security that prudent financial planning permits.

Budget for the biennium 2012-2013

66. In addition to estimating its budget for the biennium 2012-2013, the Tribunal worked with the International Criminal Tribunal for Rwanda to develop budget proposals for consideration by the Office of Legal Affairs. The budgets of both Tribunals and the Residual Mechanism were considered as a coherent whole. An important part of this process was the identification of functions to be transferred from the Tribunals to the Mechanism and an analysis of which functions could be merged. Consultation with the International Criminal Tribunal for Rwanda was continuous throughout the process. After making final decisions on the proposals developed by the Tribunals, the Office of Legal Affairs submitted the Residual Mechanism budget proposal to the Office of the Controller on 15 June 2011.

Rules of procedure and evidence

67. In cooperation with the Office of Legal Affairs, the Tribunals completed a massive project to prepare draft rules of procedure and evidence to be adopted by the Residual Mechanism. Stage one of this project entailed the preparation of a first draft of the rules. During stage two, the Judges, Prosecutions, Registries and Associations of Defence Council of both Tribunals commented on the draft; comments were taken into consideration in the preparation of a second draft of the rules. During stage three, the Presidents of the Tribunals agreed on the draft and subsequently submitted the draft to the Office of Legal Affairs on 22 July 2011.

Premises and host State agreement

68. In its resolution 1966 (2010), the Security Council identified the seats of the branches of the Residual Mechanism as The Hague and Arusha. In order to facilitate a decision on premises suitable for the Mechanism and co-located archives, the Tribunals have been asked to provide detailed and costed options for permanent premises and to assist the Office of Legal Affairs with negotiating appropriate headquarters agreements with the host States. Meetings between the Tribunal and the Government of the Netherlands have already been held, and possible locations for the Residual Mechanism are being identified.

Information security and access regime for the records of the Tribunal and the Residual Mechanism

69. The Joint Archives Strategy Working Group met on 8 and 9 February 2011 at the International Tribunal for the Former Yugoslavia. At the meeting, representatives of both Tribunals, the Archives and Records Management Section and the Office of Legal Affairs worked together to commence the establishment of an information security and access regime for the records of the Tribunals and the Residual Mechanism. The Tribunals drafted a new Secretary-General's bulletin for these purposes and submitted it to the Office of Legal Affairs for its approval. The Joint Archives Strategy Working Group met again from 27 to 29 September 2011, at the International Criminal Tribunal for Rwanda. The participants discussed the steps that needed to be taken to transfer the archives and records management function to

the Residual Mechanism, including the speedy adoption of the Secretary-General's bulletin, the finalization of retention policies for all the records of the Tribunals and the receipt of technical support.

Development of retention and record-keeping policies

70. The Archives and Records Management Unit of the Tribunal is working with the Archives and Records Management Section to produce records retention schedules for the substantive records of the three organs of the Tribunal. This work is scheduled to conclude by the end of 2011.

71. It was decided at the meeting of the Joint Archives Strategy Working Group in February 2011 to collate all record-keeping policies and procedures currently in use by the Tribunals and to identify those required by the Residual Mechanism. The Tribunal sent a provisional list of its record-keeping policies to the Archives and Records Management Section on 1 March 2011.

Preparation of digital records for migration to the Residual Mechanism

72. Upon approval from the Headquarters Committee on Contracts on 28 October 2009, the Tribunal entered into a contract with Memnon Archiving Services, which became effective on 19 November 2009, to digitize its backlog of audio-visual recordings of court proceedings. Substantial progress has been made in digitizing the recordings. The Tribunal has raised a requisition for the option to continue for an additional year under the contract, to ensure that efforts continue to be made to complete the digitization of the audio-visual materials in 2011. There is also an option for a second additional year under the existing contract. The Tribunal is also preparing a business case to address the digitization of those materials after the projected timelines under the contract with Memnon have expired.

73. The Tribunal has engaged a specialist consultant to advise it on the development and implementation of a digital preservation strategy that will ensure that the Tribunal's digital records and archives are authentic, trustworthy, meaningful, preserved, protected, accessible and usable in the future. The longer-term aim is to gather information for the development of a digital preservation strategy for the Residual Mechanism. The consultant is expected to submit his report by the end of 2011.

Preparation of hard-copy archives for transfer to the Residual Mechanism

74. The Tribunal engaged a specialist consultant to survey and assess the condition of hard-copy materials in two key collections — the Prosecutor's evidence collection and the Registry's judicial case records — and to recommend measures for the preservation and conservation of those materials. The Tribunal's archivist is reviewing the recommendations and preparing an implementation plan.

Review of agreements

75. All agreements of the Tribunal with States and other international bodies are being reviewed to determine whether they need to remain in force when the Residual Mechanism starts functioning and, where applicable, whether they need to be amended to meet the specific requirements of the Mechanism.

76. The General Services Section, together with the Procurement Section, has been planning service and supply contracts with private entities for some time in accordance with the downsizing and upcoming closure of the Tribunal. There are no plans for contracts to be extended beyond the expected closure date. The Tribunal has, where possible, approved optional extensions that give it the flexibility to continue receiving the services it requires. This includes the Tribunal's building leases and utilities contracts.

Information centres

77. Following the October 2009 mission of the Head of Chambers to the region of the former Yugoslavia, the President established the Informal Consultative Working Group on the Establishment of Information Centres in the Region of the former Yugoslavia, consisting of representatives of Governments in the region, to enable national authorities to better determine whether they consider it desirable to establish information centres on their territories and, if so, to develop a vision for such centres that would be elaborated through consultations with civil society in the region. Representatives of the United Nations Development Programme and the United Nations Interregional Crime and Justice Research Institute (UNICRI) were invited to participate in the Working Group as observers. In September 2010, the first meeting of the Working Group was held in Brdo, Slovenia, during which concrete steps were identified to bring the project to fruition. The Tribunal has since circulated for comment a draft project proposal on the establishment of the centres to Working Group members and observers and completed consultations on the proposal with non-governmental organizations in the region. In June 2011, the Government of Switzerland hosted a workshop in the region for Working Group members and observers, bringing together experts from various countries working in the field of archives and human rights to share their experience. During the workshop, the staff of the Tribunal's Outreach Programme reported to the Working Group on the feedback from non-governmental organizations. Based on the discussions at the workshop, it was determined that the most constructive way forward would be for the Tribunal to work bilaterally with each interested State to assemble a project proposal tailored to the particular needs of that State. Once such bilateral discussions have been held, a joint meeting of the Working Group will be convened to discuss the project proposal.

IX. Legacy and capacity-building

78. On 28 September 2010, the Tribunal, the OSCE Office for Democratic Institutions and Human Rights and UNICRI officially launched the joint 18-month War Crimes Justice Project in Belgrade. The purpose of the project is to facilitate the transfer of the Tribunal's unique institutional knowledge and specialized skills to jurisdictions in the region and to ensure that those jurisdictions have access to the Tribunal's relevant materials in a useable form. The €4 million project was made possible through generous funding by the European Union. The Tribunal has implemented three components of the project, including the transcription of designated Tribunal proceedings into the local languages of the region, the translation into Bosnian/Croatian/Serbian of the Tribunal's Appeals Chamber case law research tool, and the training of legal professionals on how to access and research the Tribunal's public records. Over 60,000 pages of transcripts have been

completed, approximately 200,000 words contained in the research tool have been translated and uploaded onto the Tribunal's website and 157 legal professionals from regional judiciaries have received training on searching and accessing publicly available Tribunal material.

79. The Tribunal has lent its expertise to project components administered by the OSCE Office for Democratic Institutions and Human Rights, including the development of an international humanitarian law curriculum tailored to each jurisdiction's legal framework and the publication of a manual incorporating the most effective practices used by defence counsel before the Tribunal. During the reporting period, the Tribunal's Judges participated in a peer-to-peer meeting in Budva, Montenegro, with their colleagues from the region. Prosecutors of the Tribunal and their national counterparts in the region exchanged experiences during a peer-to-peer meeting in Skopje. On 26 October 2011, at the official closing event for the project, which was held in Sarajevo, Tribunal Judges participated in a final peer-to-peer meeting with their colleagues from throughout the region.

80. The Tribunal has been seeking ways of ensuring the transfer of its expertise to and access to its records by Albanian-speaking counterparts in the region. The Government of Switzerland has generously provided funding for the translation into Albanian of the Tribunal's manual on developed practices, which was produced by the Tribunal in cooperation with UNICRI and which provides a comprehensive description of the operating practices that have developed at the Tribunal since its inception. Translation of the manual is due to be completed by December 2011. The Tribunal is also seeking funding for the production of relevant transcripts into the Albanian language.

81. Encouraged by the fruitful outcome of the conference on assessing the legacy of the Tribunal, which explored aspects of the Tribunal's legacy, particularly in the former Yugoslavia, the Tribunal will convene a second conference on 15 and 16 November 2011 on the Tribunal's global legacy. The global legacy conference will bring together leading academics, international judges and practitioners, State representatives and members of civil society to explore the impact of the Tribunal's work on international humanitarian law and international criminal procedure, as well as the potential of its jurisprudence to shape the future of global justice and the advancement of human rights. Topics to be discussed at the conference include the impact of the Tribunal's substantive jurisprudence on the elucidation of customary international humanitarian law; the interaction of common and civil law procedures in the work of the Tribunal: efficiency and fairness in complex international trials; the impact of the Tribunal's work on the future of global justice and the advancement and enforcement of human rights; and the Tribunal's jurisprudential contribution to the clarification of the core crimes of genocide, crimes against humanity and war crimes. It is anticipated that about 350 people will participate in the conference, including some of the most eminent scholars and practitioners in the field of international criminal and humanitarian law. The conference is being made possible through the generosity of the Governments of the Netherlands, Luxembourg, Switzerland and the Republic of Korea, as well as the Municipality of The Hague and the Open Society Justice Initiative.

X. Conclusion

82. The present report demonstrates the Tribunal's steadfast commitment to the expeditious conduct of its proceedings in full compliance with due process standards. Some estimates for the completion of proceedings have had to be revised in the light of factors beyond the Tribunal's control. As much as possible, the Tribunal has undertaken measures to minimize the impact of these factors upon its proceedings.

83. Staff attrition has had a dramatic impact on the pace of the Tribunal's proceedings. The need for measures to assist in retaining staff at this critical juncture in the Tribunal's life cannot be overstressed. Without practical and effective staff retention and recruitment measures, the situation will worsen, and the Security Council should expect to see further revised estimates in the future as a direct result of staff attrition.

84. The Tribunal has successfully brought to trial those accused of serious violations of international humanitarian law, thus sending a clear and unequivocal message that impunity for such offences will not be tolerated. The Tribunal also encourages the Security Council to support the judicial institutions in the region of the former Yugoslavia in continuing the work initiated by the Tribunal and the Council. By balancing the need to expedite its proceedings with a keen attentiveness to the rights of the accused and by helping to strengthen the capacity of the States of the former Yugoslavia to try alleged violations of international humanitarian law in their own courts, the Tribunal has fortified the rule of law in the former Yugoslavia and in the wider global community.

Annex II

Report of Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004)

Contents

		Page
I.	Overview	23
II.	Completion of trials and appeals	24
	A. Effective management of the resources of the Office of the Prosecutor	24
	B. Update on the progress of trials	25
	C. Update on the progress of appeals	28
	D. Contempt cases	28
	E. Access orders	29
III.	State cooperation with the Office of the Prosecutor and cooperation between States in the former Yugoslavia	29
	A. Cooperation between the States of the former Yugoslavia and the Office of the Prosecutor	30
	B. Cooperation between States of the former Yugoslavia in war crimes investigations and prosecutions	32
	C. Cooperation between other States and organizations and the Office of the Prosecutor	34
IV.	Support by the Office of the Prosecutor for domestic war crimes prosecutions	34
	A. Access to information in Office of the Prosecutor databases and Tribunal case records	34
	B. Expertise transfers	35
V.	Downsizing and preparing for the International Residual Mechanism for Criminal Tribunals	35
	A. Downsizing the Office of the Prosecutor upon completion of trial activities	35
	B. Preparations for the Residual Mechanism	36
VI.	Conclusion	36

I. Overview

1. The Prosecutor submits the present Completion Strategy report, his sixteenth, covering developments between 17 May 2011 and 15 November 2011, pursuant to Security Council .esolution 1534 (2004).

2. The arrest of the two remaining fugitives from the International Tribunal for the Former Yugoslavia during the reporting period was a significant and long-awaited development. Ratko Mladić — a fugitive from the Tribunal for 16 years — was arrested by the Serbian authorities on 26 May 2011. Goran Hadžić — a fugitive from the Tribunal for 7 years — was arrested by the Serbian authorities on 20 July 2011. Victims of the crimes alleged against Mladić and Hadžić now have an overdue opportunity for redress. For the Tribunal, the arrests remove one of the last obstacles to successfully completing the mandate entrusted to it by the Security Council.

3. The arrests were undoubtedly a positive development for the Tribunal and international criminal justice more generally. However, questions remain about how the two fugitives successfully evaded justice for so long. The Prosecutor expects the Government of Serbia to answer those questions promptly.

4. With no more Tribunal fugitives at large, the Office of the Prosecutor has been able to focus fully on its core business of completing remaining cases and appeals. At the end of the reporting period two cases were in the pretrial phase (*Mladić* and *Hadžić*); two cases were in the prosecution evidence presentation phase (*Haradinaj et al.* (retrial) and *Karadžić*); three cases were in the defence evidence presentation phase (*Stanišić and Župljanin*, *Stanišić and Simatović* and *Tolimir*); in one case, the evidence presentation by the Prosecution and Defence had concluded (*Šešelj*); and one case was awaiting judgement at the Trial Chamber level (*Prlić et al.*). In addition, six cases were in appeal (*Šainović et al.*, *Lukić and Lukić*, *Popović et al.*, *Đorđević*, *Gotovina* and *Perišić*).

5. The progress made by the Office of the Prosecutor towards completing its trials and appeals has been achieved despite alarming rates of staff attrition and the absence of funds to staff the *Mladić* and *Hadžić* Office of the Prosecutor trial teams. The Office has devised temporary solutions to these problems by using its resources flexibly and by calling upon staff members to take on additional responsibilities. The Office remains indebted to its loyal staff members who, in order to ensure the Tribunal's success, continue to take on workloads above and beyond what should normally be expected. More sustainable solutions must be found for the longer term and creative approaches are needed to stem the tide of staff attrition.

6. During the reporting period, the Office of the Prosecutor became increasingly concerned about contemptuous and other conduct that undermines the integrity of the Tribunal's judicial processes. In particular, notwithstanding court orders and sanctions, the accused Vojislav Šešelj has repeatedly breached the confidentiality of witnesses by disclosing information identifying them and has openly expressed his determination to continue doing so. The retrial of the *Haradinaj* case has experienced difficulties in securing the attendance and testimony of key witnesses. Solutions are needed urgently.

7. As the Tribunal moves into the final phase of its operations, the Office of the Prosecutor is increasing its emphasis on the transition to domestic war crimes prosecutions. The Transition Team, under the Prosecutor's direction, is overseeing

the Office's efforts to strengthen the capacity of national judicial institutions to handle effectively the large volume of war crimes cases that remain to be prosecuted in the region. While the Office has established effective working relationships with national prosecution offices, significant concerns remain about the implementation of national war crimes strategies, particularly in Bosnia and Herzegovina. In addition, regional inter-State cooperation must be urgently improved to overcome persistent barriers to establishing accountability for war time atrocities. The failure to arrest Radovan Stanković — who escaped from custody in Foča more than four years ago — is a worrying example of the problems that remain.

II. Completion of trials and appeals

A. Effective management of the resources of the Office of the Prosecutor

8. During the reporting period, the Office of the Prosecutor continued to allocate its resources in a flexible and solution-oriented way to overcome difficulties that might otherwise jeopardize the completion of its mandate. As the Trial Division continues to abolish trial posts upon the completion of cases, the Appeals Division has supported several essential trial-related functions. These include digesting and communicating substantive and procedural decisions of interest to the trial teams of the Office, overseeing the selection and assignment of interns in the Office and managing meetings of legal advisers. The Appeals Division also assisted the trial teams of the Office with briefings on major legal issues, preparing final trial briefs and closing submissions and time-pressured work, such as disclosure.

9. To date, the Office of the Prosecutor has successfully met its court-related obligations in its remaining trials and appeals, notwithstanding several significant challenges. One of these challenges has been the lack of funding to staff Office trial teams for the *Mladić* and *Hadžić* cases. Until funds become available (funds have been requested for the biennium 2012-2013), the Office has called upon staff members assigned to other trials to absorb the work necessary to make progress in the pretrial preparations of the two cases. Appeals Division staff members have also been assigned to assist with preparations for the *Mladić* and *Hadžić* cases and to provide relief for the Office trial teams whose members are carrying heavy dual burdens. The Office has compiled rosters of qualified staff to ensure that it can quickly resolve its staffing shortages on the *Mladić* and *Hadžić* cases as soon as funds become available.

10. Another challenge for the Office of the Prosecutor during the reporting period was the high rates of staff attrition. The trial teams of the Office all report serious problems associated with key staff members leaving the Office in the midst of a trial. Shortages of personnel to assist with electronic disclosure searches and to perform trial and language support functions have also affected the Office's ability to respond quickly to demands from defence teams and Chambers. To counter the effects of staff attrition, remaining staff have had to take on additional burdens. This situation is not sustainable in the longer term and more durable solutions are needed.

B. Update on the progress of trials

1. *Prlić et al.*

11. The trial in this case was completed in March 2011. The Trial Chamber continues to prepare its judgement, which is not expected before June 2012.

2. *Šešelj*

12. This trial is now approaching its final phase. On 23 August 2011, Šešelj decided not to call a Defence case. The trial is expected to conclude in the next reporting period. On 31 October 2011, the Trial Chamber issued a scheduling order requiring the parties to file their closing briefs by 5 February 2012. Closing arguments have been set for 5 March 2012.

13. Progress in the case has been delayed pending the completion of a report by the *amicus curiae* appointed by the Trial Chamber to investigate Šešelj's contempt allegations against staff members of the Office of the Prosecutor. The Trial Chamber released a public redacted version of the *amicus curiae*'s *ex parte* and confidential report on 28 October 2011. The *amicus curiae* rejected Šešelj's allegations, finding insufficient grounds to proceed against the staff members of the Office for contempt of court.

14. The issues investigated by the *amicus curiae* are relevant to credibility determinations concerning evidence adduced in the *Šešelj* trial. The Prosecution proposed to tender evidence regarding those credibility issues, but the Trial Chamber denied the requests. Instead, the Trial Chamber ordered the *amicus curiae*'s investigation and has indicated that it will use the report to make credibility determinations in the case. The Trial Chamber is yet to rule on the procedural and evidentiary issues arising from the Report and on Šešelj's underlying contempt motion.

3. *Stanišić and Župljanin*

15. This trial is nearing its final phase, with the completion of evidence by Župljanin expected by the end of December 2011. After that time, the Prosecution will seek to call for a small amount of rebuttal evidence. Allowing for any further witnesses the Chamber may wish to call, the Office of the Prosecutor estimates that the trial could be concluded by April 2012, although, as explained below, it should be kept in mind that the Judges' competing obligations in other cases makes end dates more difficult to predict.

16. The trial schedule in this case has been interrupted by the simultaneous assignment of Judge Burton Hall and Judge Guy Delvoie to other cases. In particular, since August, the *Stanišić and Župljanin* case and the *Haradinaj* retrial have been alternating on a two-weeks on/two-weeks off court-sitting schedule. Further delays may arise from the assignment of Judges Hall and Delvoie to the *Rašić* contempt trial, which is presently scheduled to be held in January 2012. However, both Stanišić and Župljanin have called on fewer witnesses than initially anticipated, which has offset some of the delays caused by reducing court-sitting time.

4. *Stanišić and Simatović*

17. During the reporting period, the Defence phase of this case included the presentation of evidence by Stanišić. On 14 June 2011, the Trial Chamber convened a pre-defence conference. On 15 June 2011, the *Stanišić* Defence gave its opening statement and, six days later, it began its presentation of evidence. The Trial Chamber then granted a request by the *Stanišić* Defence for an adjournment and allowed four weeks for the conduct of additional preparations. This delay was offset by the *Stanišić* Defence withdrawing several witnesses. The *Simatović* Defence is scheduled to commence immediately after the conclusion of the *Stanišić* Defence.

5. *Tolimir*

18. The Prosecution has completed the presentation of its evidence in this case, with the exception of one witness, who is presently facing contempt proceedings before the Tribunal. The Defence case is scheduled to begin with an opening statement on 10 January 2012 and is expected to finish by around March 2012. The Trial Chamber granted the accused three months to prepare his defence, taking into account the fact that he is representing himself and the large volume of material he must review. The Trial Chamber considered the Prosecution's case to be closed as at 27 September 2011, subject to pending evidentiary motions, the last of which was decided on 1 November 2011.

19. The trial team of the Office of the Prosecutor is making efficient use of the court break by preparing for the Defence case and advancing work on the Prosecution's closing brief. In addition, members of this trial team are simultaneously working on pretrial matters in the *Mladić* case and assisting with office-wide staff rostering processes.

6. *Haradinaj et al.* (retrial)

20. The trial in this case commenced during the reporting period and the Prosecution is presenting its evidence. The Prosecution anticipates closing its case early in 2012. The trial has been proceeding on a limited court-sitting schedule to accommodate the competing obligations of Judges Delvoie and Hall in the *Stanišić and Župljanin* case (see para. 16 above).

21. Some delays have resulted from difficulties with securing the attendance of a key witness to testify before the court. This difficulty follows the pattern of witness-related issues from the first *Haradinaj et al.* trial, and must be overcome if the retrial is to be an effective process.

7. *Karadžić*

22. The Prosecution is approaching the final component of its evidence presentation in this case. The current component, which deals with crimes committed in municipalities throughout Bosnia and Herzegovina, will be completed in November. The final component, which deals with the crimes committed in Srebrenica in July 1995, will start towards the end of November. As at the beginning of October, the Prosecution had used around 185 hours of the 300 hours allocated to it for its evidence presentation.

23. During the reporting period the pace of the trial increased and the Prosecution expects that it will close its case by around May 2012. The trial team of the Office

of the Prosecutor has facilitated the faster pace of the trial by constantly monitoring incoming evidence and by either removing from its witness list the names of people who would have given similar evidence or reducing the time devoted to the direct examination of witnesses and the number of exhibits to be tendered.

24. The trial team of the Office of the Prosecutor has worked hard to avoid significant delays by allocating all available resources to the management of its ongoing disclosure obligations. When discrete disclosure issues have emerged, the team has promptly put in place systems to correct the problem and prevent its recurrence. The trial team has also shown flexibility by adjusting witness schedules to overcome unexpected witness availability issues and scheduling problems associated with delayed disclosure protections.

8. *Mladić*

25. This case is in the pretrial phase. Mladić made his first appearance on 3 June 2011. On 4 July 2011, a plea of not guilty to the charges against him was entered on his behalf. Since then, the Pretrial Chamber has convened a series of status conferences and Rule 65 *ter* meetings. At the most recent status conference, held on 10 November 2011, the Trial Chamber confirmed that preparations for the trial were on track. The Trial Chamber and the Prosecution were also provided with a report on Mladić's medical condition. The Chamber indicated that it was considering obtaining a further, more comprehensive, medical report.

26. The Prosecution remains committed to presenting an expeditious case against Mladić that reflects the scope and gravity of his crimes. On 16 August 2011, the Prosecution filed an application seeking severance of the Second Amended Indictment into two separate indictments, with charges arising from the Srebrenica massacres of 1995 being heard first. On 13 October 2011, the Trial Chamber denied the Prosecution's application. The Prosecution is now reviewing the operative indictment and considering ways to reduce the size of its case, while at the same time preserving the overall interests of justice.

27. The Prosecution is also engaged in other pretrial preparations, including disclosure of material to the accused. The Prosecution is allocating all available resources for disclosure reviews and, within existing budgetary limits, hiring temporary staff to work exclusively on them. The Prosecution is working diligently to ensure that it complies with the deadlines set by the Trial Chamber for December 2011 and January 2012.

28. Although there is presently no regular budget funding to staff the *Mladić* trial team, the Prosecutor has called upon staff members working on other trials and appeals to assist with the *Mladić* case to advance pretrial preparations. Rosters of qualified staff are being drawn up so that the required staff can be hired as soon as regular budget funds become available.

9. *Hadžić*

29. This case is in the pretrial phase and is expected to commence towards the end of 2011. Hadžić made his first appearance on 25 July 2011. At a subsequent appearance, on 24 August 2011, he pleaded not guilty to the charges against him.

30. The first Rule 65 *ter* meeting for the case was held on 4 November 2011 and the first status conference was held on 10 November 2011. The Prosecution is

moving ahead with disclosure searches and reviews, as well as other pretrial preparations. As with the *Mladić* case, this work is presently being handled by staff members with full-time commitments to other cases. This emergency situation will be remedied once funds become available to properly staff the trial team of the Office of the Prosecutor.

C. Update on the progress of appeals

31. During the reporting period, there was limited appellate activity on Tribunal cases, allowing Appeals Division staff to support other work being done throughout the Office, as described above.

32. No Appeals Chamber judgements were issued. One appeals hearing was held — in the *Lukić and Lukić* case — on 14 and 15 September 2011.

33. The *Šainović et al.* and *Popović et al.* cases are fully briefed and awaiting hearing. The *Šainović et al.* briefing finished on 1 September 2010 and the *Popović et al.* briefing finished on 2 May 2011. Appeals hearings are projected for February 2012 and February 2013 respectively. These appeals cases are two of the three remaining cases involving multiple accused persons to reach the appeals stage.

34. Briefings on the *Đorđević* case (trial judgement rendered on 23 February 2011) and *Gotovina et al.* case (trial judgement rendered on 15 April 2011) were completed during the period. The appeals briefing in the *Perišić* case (trial judgement rendered on 6 September 2011) has started and should be completed in the first half of the next reporting period.

35. At the end of the reporting period, the Appeals Division was expected to carry out an inventory of at least five Prosecution appeals and 15 individual accused appeals.

D. Contempt cases

1. *Rašić*

36. This contempt case continued in the pretrial phase during the reporting period. The trial is set to commence on 9 January 2012.

37. Since the Prosecutor's last Completion Strategy report (S/2011/316, annex II), the Defence has filed its pretrial brief and the Prosecution has filed its witness and exhibit lists, along with motions seeking to admit evidence in written form pursuant to Rules 92 *bis* and 92 *ter*. The Pretrial Chamber has ruled on preliminary motions and admitted into evidence a set of agreed facts and exhibits. A status conference was held on 9 June 2011.

38. Throughout the pretrial phase, the Prosecution worked diligently with the Defence to reach agreements on exhibits and facts so that the trial could focus on areas of genuine dispute. Through those efforts, the Prosecution was able to significantly shorten its initial witness and exhibit lists and therefore the length of the trial.

2. *Šešelj*

39. The *Šešelj* case continues to be characterized by Šešelj's ongoing contempt of court, which jeopardizes protective measures for witnesses, consumes Office of the Prosecutor and other Tribunal resources and undermines the integrity of the Tribunal's processes. Šešelj has repeatedly posted protected witness information on his website and refuses to remove it despite court orders. Šešelj has repeatedly made public statements that he intends to continue interfering with the administration of justice. During his closing statement at his second contempt trial on 8 June 2011, he declared his intention to have at least 10 contempt proceedings instituted against him. He repeated this declaration during a court hearing on 23 August 2011.

40. Šešelj's second contempt trial — concerning breaches of protective measures — was completed in June 2011. On 31 October 2011, he was convicted for contempt and sentenced to 18 months of imprisonment, to be served concurrently with other prison sentences already imposed for contempt.

41. On 4 November 2011, Šešelj made his initial appearance concerning a third contempt matter being prosecuted by Trial Chamber II pursuant to an order in lieu of an indictment. Šešelj pleaded not guilty.

42. During the reporting period, the Prosecution was once again required to devote substantial resources to issues arising in connection with the *amicus curiae*'s investigation into Šešelj's contempt allegations against the Office of the Prosecutor. As noted above (see para. 13), after almost one year of investigation, the *amicus curiae*'s report was filed and no basis was found for contempt proceedings against staff members of the Office.

E. Access orders

43. During the reporting period, the Office of the Prosecutor continued to allocate substantial resources to dealing with ongoing obligations arising from access orders. As at 10 November 2011, at least 30 orders had been given granting accused persons continuing access to confidential materials on other ongoing trials. These access orders require the Office to continuously review the trial records as the cases progress, consult with any relevant Rule 70 providers and notify the Registry of materials to be provided or withheld from the accused person who has been granted access. The *Karadžić* trial team alone is responsible for continuing compliance work in respect of orders granting seven other accused persons access to confidential materials in the *Karadžić* case, giving rise to a substantial amount of review work. In the absence of budgeted funds for access work, the Office's compliance with access orders is being absorbed within existing resources.

III. State cooperation with the Office of the Prosecutor and cooperation between States in the former Yugoslavia

44. To fulfil its mandate, the Office of the Prosecutor continued to rely on the full cooperation of States, as set out in article 29 of the Statute of the International Tribunal for the Former Yugoslavia. In addition, the Office kept abreast of developments concerning cooperation between States of the former Yugoslavia, that

affect the capacity of national systems to take over responsibility for war crimes cases from the Tribunal.

45. To promote and assess cooperation during the reporting period, the Office of the Prosecutor maintained a direct dialogue with Government and judicial authorities from Serbia, Croatia and Bosnia and Herzegovina, including officials in national prosecution offices. The Prosecutor travelled to Belgrade on 12 and 13 September 2011 and on 8 and 9 November 2011 and to Sarajevo between 31 October 2011 and 2 November 2011, to meet with officials and to discuss cooperation.

A. Cooperation between the States of the former Yugoslavia and the Office of the Prosecutor

46. During the reporting period, the Office of the Prosecutor sought cooperation from States of the former Yugoslavia, in particular Serbia, Croatia and Bosnia and Herzegovina.

1. Cooperation between Serbia and the Office of the Prosecutor

Arrests of Ratko Mladić and Goran Hadžić

47. The Serbian authorities arrested Ratko Mladić on 26 May 2011 and Goran Hadžić on 20 July 2011; both were expeditiously transferred to The Hague. For the Tribunal — and for international justice — these arrests are milestones to remember. Serbia has fulfilled a key obligation towards the Tribunal and successfully concluded an important chapter in its cooperation with the Tribunal. With no more fugitives from the Tribunal remaining, cooperation between the Office of the Prosecutor and Serbia has entered a new phase.

48. The Prosecutor acknowledges the important work done by the Serbian authorities in bringing about the arrests, particularly by the President, the National Security Council, the action team established to track the fugitives and the security service operatives who carried out the arrest operation. The Office of the Prosecutor trusts that Serbia will maintain this new positive momentum in its dealings with the Tribunal.

49. By carrying out the arrests, Serbia provided evidence of a genuine commitment to cooperating with the Tribunal. It is important for Serbia to now determine how Mladić and Hadžić evaded justice for so long and to ensure that individuals who assisted in harbouring the fugitives are held to account. During the Prosecutor's visit to Belgrade in November 2011, the Serbian authorities provided very limited information concerning these questions. The Prosecutor expects Serbia to increase its efforts to resolve this matter.

Assistance with trials and appeals

50. Serbia's cooperation with the Office of the Prosecutor remains essential for efficiently completing ongoing trials and appeals.

51. During the reporting period, Serbia maintained the satisfactory level of assistance noted in recent Completion Strategy reports. Its National Council for Cooperation with the Tribunal has played a key role in facilitating this positive

outcome. The Council has promoted coordination among different Government bodies handling Office of the Prosecutor requests, thereby accelerating response times and accommodating urgent requests made in relation to ongoing trials.

52. Serbia has given timely and adequate responses to Office of the Prosecutor requests for access to documents and archives, with no responses presently overdue. Similarly, Serbia has promptly and professionally facilitated the Office's access to witnesses and the attendance of witnesses before the Tribunal. Service of summonses was timely, court orders were executed and transfers were organized as required, including for individuals in custody for domestic court proceedings.

53. The Office of the Prosecutor expects that the Serbian authorities will continue to react promptly and professionally to requests for assistance in the months to come. The Office is facing compressed and challenging trial schedules that will demand Serbia's continued positive cooperation.

Kovačević Rule 11 *bis* case

54. The *Kovačević* case, which was transferred from the Tribunal to Serbia pursuant to Rule 11 *bis*, remains suspended due to the poor health of the accused. It is unclear when, or if, he will be fit to stand trial. A civil procedure is under way to determine whether the accused should be institutionalized because of the possible danger he represents to himself and others. The Office of the Prosecutor has requested that the Serbian authorities closely monitor the proceedings and provide it with regular updates.

2. Cooperation between Croatia and the Office of the Prosecutor

55. Since many of the Tribunal's cases involving Croatian accused persons have been completed, the Office of the Prosecutor has made fewer requests for assistance from Croatia. To the limited extent that requests have been made, Croatia has given timely and adequate responses and provided access to witnesses and evidence as required.

56. During the reporting period, the Office of the Prosecutor has not received further information from the inter-agency Task Force established to locate or account for the missing military documents concerning Operation Storm. The documents had initially been requested for the trial proceedings in the *Gotovina et al.* case. These trial proceedings have now been completed and the case is in the appeal phase. As mentioned in the last Completion Strategy report of the Prosecutor, the Government of Croatia informed the Prosecutor that it had resolved to continue its administrative investigation into the missing documents so as to finalize the matter for its own records (see S/2011/316, para. 58).

57. In an address to the Security Council on 6 June 2011, the Prosecutor expressed regret about the fact that, in the aftermath of the *Gotovina et al.* judgement, the highest State officials had failed to comment objectively on the outcome of the trial. During the reporting period, senior Croatian officials continued to make public statements that undermine the Tribunal's work and impede reconciliation.

3. Cooperation between Bosnia and Herzegovina and the Office of the Prosecutor

Assistance with trials and appeals

58. During the reporting period, the Office of the Prosecutor depended on Bosnia and Herzegovina to continue to provide assistance with ongoing trials and appeals. The authorities of Bosnia and Herzegovina, at both the State and entity levels, responded promptly and adequately to the Office's requests for documents and access to Government archives. The authorities also continued to assist by facilitating the appearance of witnesses before the Tribunal.

59. The authorities satisfactorily handled a number of the Office's urgent requests and assisted with witness protection matters. As trials and appeals progress, the Office will continue to rely on similar assistance from Bosnia and Herzegovina in the future.

Stanković Rule 11 *bis* case

60. Radovan Stanković, a Rule 11 *bis* transferee, escaped from prison in Foča in May 2007. He was serving a 20-year prison sentence imposed by the Court of Bosnia and Herzegovina. Notwithstanding the Prosecutor's repeated requests, Bosnia and Herzegovina has not taken satisfactory measures to apprehend Stanković. The Prosecutor urges Bosnia and Herzegovina to urgently devote more resources to the investigation, to step up search efforts and to cooperate more effectively with other States in the region to ensure that Stanković serves the sentence imposed for his crimes.

Difficulties with implementing the national war crimes strategy

61. Slow progress has been made in prosecuting war crimes cases in Bosnia and Herzegovina. A large backlog of cases remains to be prosecuted and the implementation of the National War Crimes Strategy is facing considerable delays. In addition, a number of investigation files transferred by the Office of the Prosecutor to Bosnia and Herzegovina have not yet been completed. The Office encourages the State Court's Special Department for War Crimes to expedite the completion of investigations and prosecutions based on investigation files transferred by the Office. The same applies to finalizing investigations in respect of material transferred by the Office in connection with charges documented in Office cases but that did not form part of the Tribunal's indictments.

62. In Bosnia and Herzegovina, the process of transferring war crimes cases between State and entity-level judicial institutions requires improvement if war crimes cases are to be prosecuted effectively. The Prosecutor is concerned by the frequent political attacks carried out on the judiciary in Bosnia and Herzegovina with the aim of undermining the National War Crimes Strategy. Political leaders from all sides in Bosnia and Herzegovina must commit to war crimes prosecutions and provide all the necessary resources and support to ensure successful outcomes.

B. Cooperation between States of the former Yugoslavia in war crimes investigations and prosecutions

63. Impunity for crimes committed during the conflict cannot be properly addressed without improved cooperation between States in the former Yugoslavia.

So far, these States have failed to fully resolve long-standing inefficiencies and to overcome persistent hurdles to achieving more successful outcomes in domestic prosecutions. While the Office of the Prosecutor continued to enjoy excellent working relationships with the State Prosecutors' Offices in Bosnia and Herzegovina and Croatia, as well as the War Crimes Prosecutor's Office in Serbia, the Prosecutor remains concerned about the level of effective inter-State cooperation in the region.

Legislative developments to improve regional cooperation

64. During the reporting period, there were some improvements in war crimes information and evidence sharing between prosecutors in Bosnia and Herzegovina, Croatia and Serbia. The Office of the Prosecutor welcomes progress in the implementation of the bilateral agreement on cooperation in prosecution of war crimes concluded between the War Crimes Prosecutor's Office in Serbia and the Public Prosecutor's Office in Croatia. The agreement has produced tangible improvements in a number of cases. The Prosecution Offices of Bosnia and Herzegovina and Serbia have also indicated their willingness to sign an agreement on cooperation in war crimes cases to facilitate the exchange of evidence and information. The Office of the Prosecutor encourages both prosecution services to finalize their negotiations and to execute the agreement as a matter of priority. The Office also welcomes the extradition agreement signed by Serbia and Montenegro addressing, among other things, war crimes cases.

Barriers to improved regional cooperation

65. Judicial institutions in the former Yugoslavia still face crippling challenges in coordinating their activities. Legal barriers to the extradition of suspects and the transfer of evidence across State borders continue to obstruct effective investigations. In addition, the problem of parallel investigations by prosecutors from different States has not been resolved.

66. The Prosecutor notes with concern the decision by the Parliament of Croatia to adopt a law declaring some legal acts of the former Socialist Federal Republic of Yugoslavia, the former Yugoslav National Army and the Republic of Serbia null and void. The law serves to annul indictments alleging war crimes against citizens of Croatia. These developments imperil reconciliation in the region and the progress achieved to date.

67. Improved cooperation is also needed to address the problem of war crimes fugitives travelling between countries in the region of the former Yugoslavia to evade capture. For example, there is little coordinated action between the Governments of Bosnia and Herzegovina, Montenegro and Serbia to apprehend Radovan Stanković, who escaped from custody in Foča more than four years ago.

68. While regional prosecutors express a commitment to improving inter-State cooperation, urgent action is needed at the political and operational level to generate fundamental change.

C. Cooperation between other States and organizations and the Office of the Prosecutor

69. Support from States outside the former Yugoslavia, as well as from international organizations, remains integral to the successful completion of Tribunal cases. Assistance is needed to access documents, information and witnesses, as well as in matters related to witness protection (including relocation). The Office of the Prosecutor acknowledges the support it received during the reporting period from the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe, the Council of Europe and non-governmental organizations, including those active in the former Yugoslavia.

70. The international community has an important role to play in providing incentives for States in the region of the former Yugoslavia to cooperate with the Tribunal. The arrests of Mladić and Hadžić underscored the potential of conditionality policies — for example of linking European Union membership to full cooperation with the Tribunal — to promote positive outcomes for international justice.

IV. Support by the Office of the Prosecutor for domestic war crimes prosecutions

71. As the Office of the Prosecutor moves further into its final phase of work, it is intensifying efforts to help States in the former Yugoslavia to successfully handle the many remaining war crimes cases. The Office's Transition Team, which operates under the Prosecutor's direction, is guiding efforts to provide information and expertise to facilitate the prosecution of domestic war crimes cases.

A. Access to information in Office of the Prosecutor databases and Tribunal case records

72. During the reporting period, the Office of the Prosecutor continued to provide information to assist national jurisdictions in prosecuting crimes arising from the conflict in the former Yugoslavia, although the volume of requests received decreased from the previous period. Between 17 May 2011 and 12 October 2011, the Office received 89 new requests for assistance (compared with 123 in the previous reporting period), of which 51 were submitted by national judicial authorities in the former Yugoslavia: 31 from Bosnia and Herzegovina, 10 from Croatia and 10 from Serbia. Some of the requests were extensive and hundreds of pages of material were disclosed in response. Liaison prosecutors (see para. 76 below) from the region working with the Office of the Prosecutor played a key role in facilitating responses to those requests.

73. In addition, the Office of the Prosecutor received 38 requests for assistance from prosecution offices and law enforcement agencies in other States relating to war crimes cases arising from the conflict in the former Yugoslavia.

74. Judicial authorities in the former Yugoslavia continued to utilize procedures established under the Tribunal's Rules of Procedure and Evidence to access protected evidence used in Tribunal cases, where appropriate. In that regard, the Office of the Prosecutor responded to two Rule 75 (H) applications from judicial authorities in the region, as well as five Rule 75 *bis* applications.

B. Expertise transfers

75. To strengthen the capacity of national criminal justice systems in the former Yugoslavia to deal with war crimes cases, the Office of the Prosecutor has established effective partnerships with prosecutors and courts in the region to facilitate the transfer of expertise.

76. The liaison prosecutors project — whereby three liaison prosecutors from the region (one from Bosnia and Herzegovina, one from Croatia and one from Serbia) work with the Office of the Prosecutor in The Hague — remains a central component of the Office's strategy to transfer expertise. In August 2011, the second year of this initiative (a joint project of the European Union and the Tribunal) concluded successfully and the European Commission allocated funding for a third year. The liaison prosecutors have access to designated Office databases, and have received instruction on the search methodologies used within the Office. They can consult with in-house experts on relevant issues. They serve as contact points for other regional prosecutors, and at the same time, facilitate requests for assistance generated by the Office's trial teams.

77. The joint project also invests in educating and training young legal professionals from the former Yugoslavia who have a special interest in war crimes cases. Starting in September 2011, a new group of nine young legal professionals from Bosnia and Herzegovina, Croatia and Serbia, as well as Kosovo, have assisted with the Office's casework. During their time in The Hague, they are invited to attend lectures and presentations on topics related to the work of the Office and the Tribunal more generally.

78. The Office of the Prosecutor highly commends the contributions of legal professionals from the region who have worked in The Hague as part of the project. The participants have displayed a high level of professionalism and dedication, as well as the capacity to learn rapidly and make the most of the opportunities provided to them within the Office. Their performance confirms the value of the project in building the future capacity of the countries in the former Yugoslavia to effectively deal with complex war crimes cases.

79. The Office of the Prosecutor also supports other training programmes for prosecutors of the region by making available staff members with relevant knowledge and expertise. During the reporting period, Office representatives participated in nine regional conferences, sharing information, expertise, best practices and insight into the Tribunal's legacy.

V. Downsizing and preparing for the International Residual Mechanism for Criminal Tribunals

A. Downsizing the Office of the Prosecutor upon completion of trial activities

80. The Office of the Prosecutor continues to downsize as its trial activities reach completion. During the reporting period, the Office abolished 18 posts in the Professional category and eight posts in the General Service category, posts primarily associated with the trial team working on the *Prlić et al.* case.

81. The Office of the Prosecutor supports measures to assist staff in making the transition from their work at the Tribunal to the next step in their careers. This transition may be complex to navigate for staff members, especially those who have given many years of dedicated service to the Tribunal. These staff members have become highly specialized in international criminal investigations and prosecutions, but are faced with relatively few stable opportunities to continue working in this field. The Office strongly supports current Tribunal initiatives aimed at helping staff members to make progress in their careers. These initiatives include hiring a consultant to provide individualized career coaching for staff members and providing staff with training opportunities that will expand their expertise and prepare them for roles in other parts of the United Nations system or elsewhere. The Office hopes to see a continuation of such measures in future reporting periods.

B. Preparations for the Residual Mechanism

82. During the reporting period, the Office of the Prosecutor worked collaboratively with Registry officials at the Tribunal to prepare for the commencement of the International Residual Mechanism for Criminal Tribunals, which will take over the Tribunal's work. The Office was represented on the Tribunal's Residual Mechanism Steering Committee and was actively involved in preparing the first Residual Mechanism budget submission. The Office contributed to the draft rules of procedure and evidence for the Residual Mechanism and is working with the Tribunal's archivist to design a coherent preservation strategy for Office records. The Office has also maintained its cooperative dialogue with colleagues in the Office of the Prosecutor of the International Criminal Tribunal for Rwanda to ensure an effective approach to Residual Mechanism matters. In the coming period, the Office will intensify its focus on Residual Mechanism matters with a view to ensuring the smooth transformation of the Office into its counterpart within the Residual Mechanism.

VI. Conclusion

83. The reporting period was characterized by the long-awaited arrests of the Tribunal's last two fugitives (Ratko Mladić and Goran Hadžić), which has enabled the Office of the Prosecutor to move into the final phase of completing its mandate. The Office has managed staffing shortages arising from staff attrition and the current absence of funding for the *Mladić* and *Hadžić* cases by continuing to use its existing resources flexibly. In addition, it has depended on the willingness of its staff to take on extra burdens to meet court deadlines.

84. As the Tribunal's work approaches completion, the Office of the Prosecutor is intensifying efforts to support its regional counterparts in taking over responsibility for prosecuting war crimes cases. The Office continues to maintain positive working relationships with national prosecution offices and the joint project of the Tribunal and the European Union (see paras. 76-78) is an encouraging example of a mutually beneficial working arrangement between the Tribunal and the States of the region. In the coming reporting periods, the Office will continue to facilitate the transfer of information and expertise to prosecutors of the region. However, the Prosecutor remains concerned about persistent impediments to the effective implementation of

national war crimes strategies in the region of the former Yugoslavia, particularly in Bosnia and Herzegovina. Greater regional cooperation in war crimes matters is needed to overcome these impediments. The fact that Radovan Stanković remains at large more than four years after he escaped from prison in Foča is symptomatic of the prevailing regional coordination problems and requires an urgent solution.

85. As trials are completed, the Office of the Prosecutor is moving ahead with its downsizing plan. This process will accelerate in the next reporting period. At the same time, the Office is increasingly focusing on transferring its capacity to the Office of the Prosecutor of the Residual Mechanism (branch of the International Tribunal for the Former Yugoslavia) by anticipating its future needs and taking preparatory action.

Enclosure I

1. Persons convicted or acquitted between 15 May 2011 and 15 November 2011 (1)			
Name	**Former Title**	**Initial Appearance**	**Judgement**
Momčilo Perišić	Chief of the General Staff, Yugoslav Army	9 March 2005	6 September 2011 Sentenced to 27 years of imprisonment

2. Persons convicted or acquitted of contempt between 15 May 2011 and 15 November 2011 (2)			
Name	**Former Title**	**Initial Appearance**	**Judgement**
Shefqet Kabashi	Witness in *Prosecutor v. Haradinaj et al.*, Case No. IT-04-84	19 August 2011	16 September 2011 Sentenced to two months of imprisonment
Vojislav Šešelj No. IT-03-67-R77.3 Second contempt Case	President, Serbian Radical Party	29 April 2010	31 October 2011 Sentenced to 18 months of imprisonment

Enclosure II

1. Persons on trial between 15 May 2011 and 15 November 2011 (16)			
Name	**Former Title**	**Initial Appearance**	**Start of trial**
Jadranko Prlić	President, Croatian Community of Herceg-Bosna	6 April 2004	"Herceg-Bosna" trial commenced on 26 April 2006
Bruno Stojić	Head of Department of Defence, Croatian Republic of Herceg-Bosna		
Slobodan Praljak	Assistant Minister of Defence, Croatian Republic of Herceg-Bosna		
Milivoj Petković	Deputy Overall Commander, Croatian Defence Council		
Valentin Ćorić	Chief of Military Police Administration, Croatian Defence Council		
Berislav Pušić	Military Police Commanding Officer, Croatian Defence Council		
Vojislav Šešelj	President, Serbian Radical Party	26 February 2003	Trial commenced on 7 November 2007
Mićo Stanišić	Minister, Internal Affairs, Republika Srpska	17 March 2005	Trial commenced on 14 September 2009
Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre, Banja Luka	21 June 2008	
Jovica Stanišić	Head, State Security Services, Republic of Serbia	12 June 2003	Trial commenced on 9 June 2009
Franko Simatović	Commander, Special Operations Unit, State Security Services, Republic of Serbia	2 June 2003	
Radovan Karadžić	President, Republika Srpska	31 July 2008	Trial commenced on 26 October 2009
Zdravko Tolimir	Assistant Commander for Intelligence and Security, Main Staff, Bosnian Serb Army	4 June 2007	Trial commenced on 26 February 2010
Ramush Haradinaj	Commander of the Kosovo Liberation Army in the Dukagjin area	14 March 2005	Partial retrial commenced on 18 August 2011
Idriz Balaj	Commander of the Kosovo Liberation Army Black Eagles Special Unit		
Lahi Brahimaj	Deputy Commander of the Kosovo Liberation Army Dukagjin Operative Staff		

2. Persons accused and awaiting trial (2)			
Name	**Former title**	**Date of indictment**	**Initial appearance**
Ratko Mladić	Commander, Main Staff, Bosnian Serb Army	25 July 1995	3 June 2011
Goran Hadžić	President, Serbian Autonomous District, Slavonia Baranja and Western Srem	4 June 2004	25 July 2011

Enclosure III

1. Arrivals between 15 May 2011 and 15 November 2011 (2)			
Name	**Former title**	**Date of indictment**	**Initial appearance**
Ratko Mladić	Commander, Main Staff, Bosnian Serb Army	25 July 1995	3 June 2011
Goran Hadžić	President, Serbian Autonomous District, Slavonia Baranja and Western Srem	4 June 2004	25 July 2011

2. Remaining fugitives (0)			
Name	**Former title**	**Place of crime**	**Date of indictment**
None			

Enclosure IV

Appeals completed from 15 May 2011[a]
(with date of filing and decision)

Interlocutory		From judgement	
International Tribunal for the Former Yugoslavia		**International Tribunal for the Former Yugoslavia**	
1. Stanisic and Simatovic IT-03-69-AR65.7	28/04/11- 23/05/11		
2. Haradinaj et al. IT-04-84bis-AR73.1	16/02/11- 31/05/11	**International Criminal Tribunal for Rwanda**	
3. Haradinaj et al. IT-04-84bis-AR73.2	10/03/11- 31/05/11	1. Setako ICTR-04-81-A	29/03/10- 28/09/11
4. Stanisic and Simatovic IT-03-69-AR73.3	03/05/11- 27/05/11	2. Munyakazi ICTR-97-36A-A	03/08/10- 28/09/11
5. Prlic et al. IT-04-74-AR65.24	26/04/11- 08/06/11		
6. Prlic et al. IT-04-74-AR65.25	27/04/11- 10/06/11		
7. Perisic IT-04-81-AR65.1	18/07/11- 29/07/11	**Other**	
8. Stanisic and Simatovic IT-03-69-AR65.9	27/07/11- 04/08/11		
9. Stanisic and Zupljanin IT-08-91-AR65.2	01/07/11- 09/08/11		
10. *Conf. and ex parte*	27/07/11- 23/09/11	**Referral**	
International Criminal Tribunal for Rwanda			
		Review	
		International Tribunal for the Former Yugoslavia	
		International Criminal Tribunal for Rwanda	
		1. Kamuhanda ICTR-99-54A-R	21/05/10- 25/08/11
		2. Nahimana ICTR-99-52B-R	13/09/11-27/09/11
		Contempt	
		International Tribunal for the Former Yugoslavia	
		1. Hartmann IT-02-54-R77.5-A	24/09/09- 19/07/11
		International Criminal Tribunal for Rwanda	
		1. Nshogoza ICTR-07-91-AR77	10/12/10- 07/07/11

[a] **Total number of appeals completed from 15 May 2011 (16).**

Interlocutory Appeals (10)
Appeals from Judgement (2)
Other (0)
Referral (0)
Review (2)
Contempt (2)

Enclosure V

Appeals pending as at 15 November 2011[a]
(with date of filing)

Interlocutory		From judgement	
International Tribunal for the Former Yugoslavia		**International Tribunal for the Former Yugoslavia**	
		1. Sainovic et al. IT-05-87-A	09/03/09
		2. Lukic and Lukic IT-98-32/1-A	21/07/09
		3. Popovic et al. IT-05-88-A	18/06/10
International Criminal Tribunal for Rwanda		4. Djordjevic IT-05-87/S-A	04/03/11
1. Uwinkindi ICTR-01-75-AR72 (C)	04/04/11	5. Gotovina and Markac IT-06-90-A	16/05/11
2. Ngirabatware ICTR-99-54-AR73 (C)	21/09/11	6. Perisic IT-04-81-A	13/09/11
		International Criminal Tribunal for Rwanda	
		7. Bagosora and Nsengiyumva ICTR-98-41-A	13/03/09
		8. Ntabakuze ICTR-98-41A-A	11/03/09
		9. Ntawukulilyayo ICTR-05-82-A	06/09/10
		10. Kanyarukiga ICTR-02-78-A	09/12/10
		11. Hategekimana ICTR-00-55B-A	16/03/11
		12. Gatete ICTR-00-61-A	03/05/11
		13. Military II ICTR-00-56-A	20/07/11
		14. Butare ICTR-98-42-A	01/09/11
		15. Government II – ICTR-99-50-A	12/10/11
		Other appeals	
		1. Oric IT-03-69-A	27/09/11
		2. D. Milosevic IT-98-29/1-A	27/09/11
		3. Oric IT-03-69-A (2)	18/10/11
		Referral	
		International Tribunal for Rwanda	
		1. Uwinkindi ICTR-01-75-AR11*bis*	13/07/11
		Review	
		International Tribunal for the Former Yugoslavia	
		International Criminal Tribunal for Rwanda	
		1. Ndindabahizi ICTR-01-71-R	31/01/11
		2. Kajelijeli ICTR-98-44A-R	15/06/11
		3. Karera ICTR-01-74-R	15/08/11
		Contempt	
		International Tribunal for the Former Yugoslavia	
		International Criminal Tribunal for Rwanda	

[a] **Total number of appeals pending as of 15 November 2011 (24).**

Interlocutory Appeals (2)
Appeals from Judgement (15)
Other (3)
Referral (1)
Review (3)
Contempt (0)

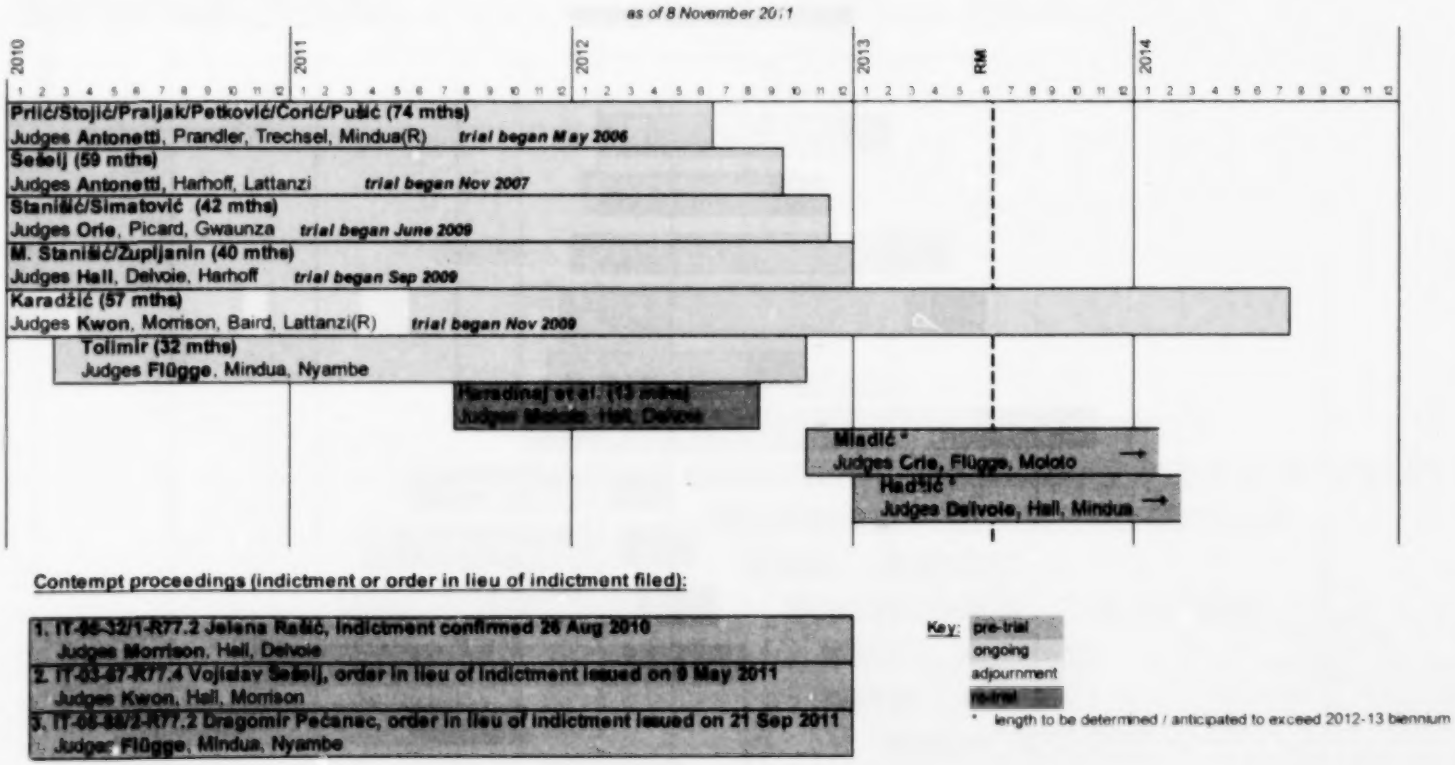
Enclosure VI

Decisions and orders rendered from 15 May 2011[a] (with date of disposition)	
International Criminal Tribunal for Rwanda	**International Tribunal for the Former Yugoslavia**
1. 17/05 – *Ntawukulilyayo*	47. 16/05 – *Popovic et al.*
2. 19/05 – *Kanyarukiga*	48. 17/05 – *Djordjevic*
3. 20/05 – *Hategekimana*	49. 19/05 – *Lukic and Lukic*
4. 23/05 – *Hategekimana*	50. 26/05 – *Popovic et al.*
5. 26/05 – *Gatete*	51. 27/05 – *Lukic and Lukic*
6. 26/05 – *Kanyarukiga*	52. 30/05 – *Djordjevic*
7. 26/05 – *Hategekimana*	53. 31/05 – *Gotovina and Markac*
8. 14/06 – *Kanyarukiga*	54. 01/06 – *Popovic et al.*
9. 16/06 – *Ntawukulilyayo*	55. 10/06 – *Prlic et al.*
10. 16/06 – *Military II*	56. 16/06 – *Sainovic et al.*
11. 17/06 – *Gatete*	57. 16/06 – *Lukic and Lukic*
12. 17/06 – *Setako*	58. 22/06 – *Gotovina and Markac – Conf.*
13. 22/06 – *Ntabakuze*	59. 22/06 – *Conf. and ex parte*
14. 23/06 – *Conf. and ex parte*	60. 28/06 – *Gotovina and Markac*
15. 28/06 – *Conf. and ex parte*	61. 29/06 – *Conf. and ex parte*
16. 28/06 – *Gatete*	62. 30/06 – *Sainovic et al.*
17. 29/06 – *Hategekimana*	63. 30/06 – *Lukic and Lukic – Conf.*
18. 08/07 – *Military II*	64. 30/06 – *Lukic and Lukic*
19. 11/07 – *Military II*	65. 06/07 – *Lukic and Lukic*
20. 11/07 – *Hategekimana*	66. 06/07 – *Lukic and Lukic – Conf.*
21. 14/07 – *Uwinkindi*	67. 07/07 – *Gotovina and Markac*
22. 14/07 – *Uwinkindi*	68. 08/07 – *Lukic and Lukic*
23. 14/07 – *Uwinkindi*	69. 12/07 – *Lukic and Lukic*
24. 15/07 – *Butare*	70. 19/07 – *Gotovina and Markac*
25. 15/07 – *Gatete*	71. 20/07 – *Gotovina and Markac*
26. 15/07 – *Military II*	72. 22/07 – *Lukic and Lukic – Conf.*
27. 18/07 – *Military II*	73. 22/07 – *Popovic et al. – Conf.*
28. 21/07 – *Butare*	74. 22/07 – *Conf. and ex parte*
29. 22/07 – *Military II*	75. 02/08 – *Conf. and ex parte*
30. 25/07 – *Butare*	76. 04/08 – *Lukic and Lukic*
31. 04/08 – *Kajelijeli*	77. 24/08 – *Lukic and Lukic – Conf.*
32. 04/08 – *Kajelijeli*	78. 21/09 – *Djordjevic*
33. 05/08 – *Military II*	79. 25/08 – *Lukic and Lukic – Conf.*
34. 19/08 – *Munyakazi*	80. 25/08 – *Lukic and Lukic – Conf.*
35. 19/08 – *Gatete*	81. 05/09 – *Lukic and Lukic – Conf.*
36. 22/08 – *Hategekimana*	82. 09/09 – *Sainovic et al.*
37. 25/08 – *Ntawukulilyayo*	83. 11/09 – *Perisic*
38. 26/08 – *Hategekimana*	84. 14/09 – *Boskoski and Tarculovski – Conf.*
39. 31/08 – *Setako*	85. 14/09 – *Gotovina and Markac*
40. 15/09 – *Nahimana*	86. 16/09 – *Popovic et al. – Conf.*
41. 15/09 – *Ntabakuze*	87. 21/09 – *Djordjevic*
42. 15/09 – *Ntawukulilyayo*	88. 28/09 – *D. Milosevic*
43. 23/09 – *Ngirabatware*	89. 29/09 – *Oric*
44. 30/09 – *Butare*	90. 11/10 – *Popovic et al.*
45. 14/10 – *Government II*	91. 18/10 – *Gotovina and Markac*
46. 26/10 – *Ndindiliyimana et al.*	92. 20/10 – *Popovic et al.*
	93. 26/10 – *Gotovina and Markac*

[a] Total number of decisions and orders rendered (93).

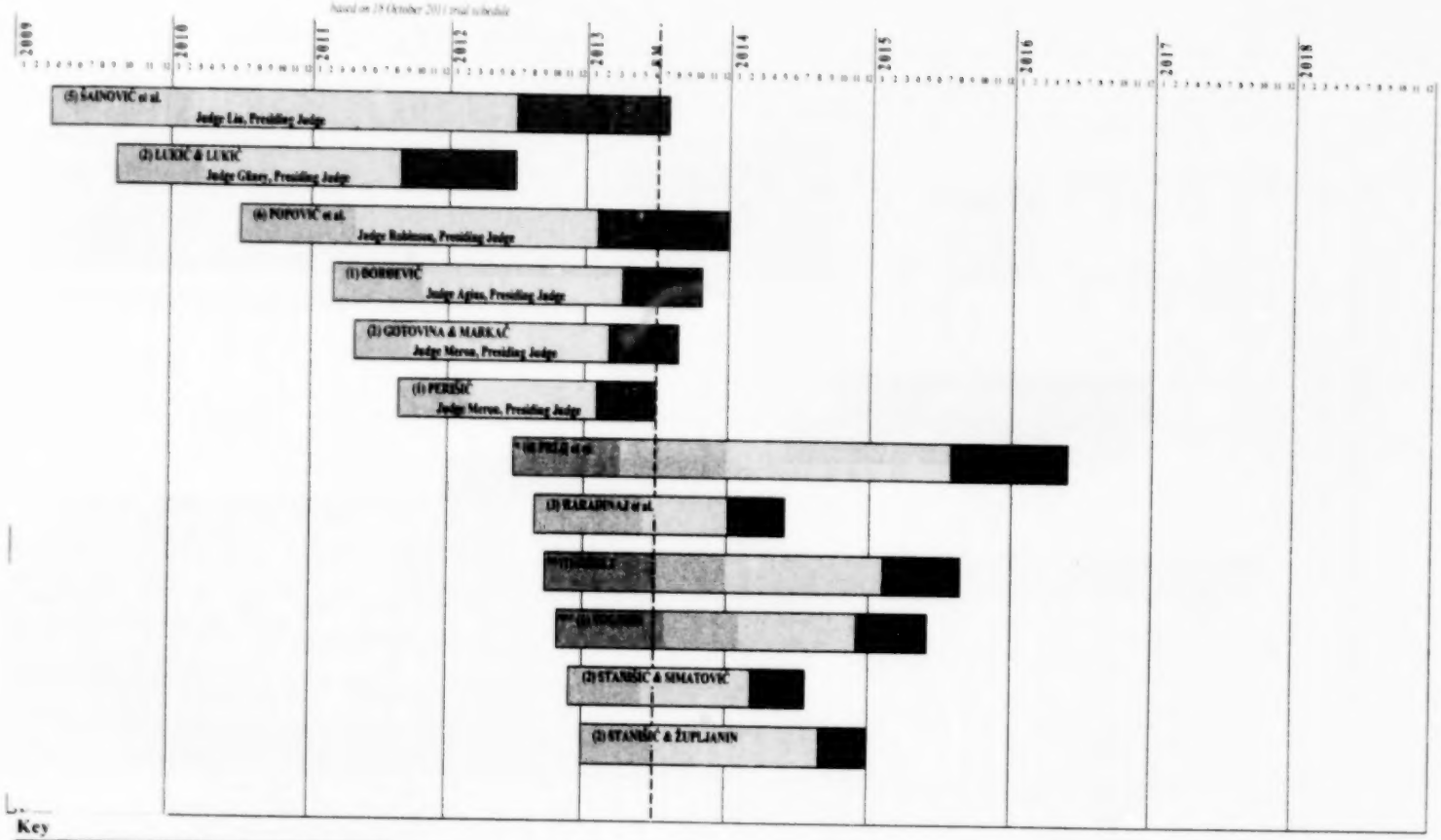
Enclosure VII

International Tribunal for the Former Yugoslavia trial schedule


as of 8 November 2011
2010
2011
2012
2013
RM
2014
Prlić/Stojić/Praljak/Petković/Ćorić/Pušić (74 mths)
Judges Antonetti, Prandler, Trechsel, Mindua(R) trial began May 2006
Šešelj (59 mths)
Judges Antonetti, Harhoff, Lattanzi trial began Nov 2007
Stanišić/Simatović (42 mths)
Judges Orie, Picard, Gwaunza trial began June 2009
M. Stanišić/Župljanin (40 mths)
Judges Hall, Delvoie, Harhoff trial began Sep 2009
Karadžić (57 mths)
Judges Kwon, Morrison, Baird, Lattanzi(R) trial began Nov 2009
Tolimir (32 mths)
Judges Flügge, Mindua, Nyambe
Haradinaj et al. (13 mths)
Judges Moloto, Hall, Delvoie
Mladić *
Judges Orie, Flügge, Moloto
Hadžić *
Judges Delvoie, Hall, Mindua
Contempt proceedings (indictment or order in lieu of indictment filed):
1. IT-06-32/1-R77.2 Jelena Rašić, indictment confirmed 26 Aug 2010
Judges Morrison, Hall, Delvoie
2. IT-03-67-R77.4 Vojislav Šešelj, order in lieu of indictment issued on 9 May 2011
Judges Kwon, Hall, Morrison
3. IT-05-88/2-R77.2 Dragomir Pečanac, order in lieu of indictment issued on 21 Sep 2011
Judges Flügge, Mindua, Nyambe
Key:
pre-trial
ongoing
adjournment
re-trial
* length to be determined / anticipated to exceed 2012-13 biennium

Enclosure VIII

International Tribunal for the Former Yugoslavia appeal schedule



Key

- **Briefing**
- **Preparatory Document**
- **Hearing**
- **Judgement Drafting**
- **Translation**

(including time for filing Notice of Appeal)

Extension due to TC Judgement translation (only for the self-represented accused who do not speak English and for French benches)

* *Prlić: TC Judgement into English, 9 months - solutions being implemented to reduce the total post-judgement translation period to a minimum*

** *Šešelj: TC Judgement into BCS and English, 9 months*

*** *Tolimir: TC Judgement translation into BCS, 9 months*

Enclosure IX

International Criminal Tribunal for Rwanda appeal schedule

Based on redepolyment of Judges and posts